THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 14 NUMBER 62

Washington, Friday, April 1, 1949

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10048

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE SOUTHERN PACIFIC COMPANY (PACIFIC LINES) AND CERTAIN OF ITS EMPLOYEES

Whereas a dispute exists between the Southern Pacific Company (Pacific Lines), a carrier, and certain of its employees represented by the Brotherhood of Locomotive Firemen and Enginemen, a labor organization; and

Whereas this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

Whereas this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a large section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate the said dispute. No member of the said board shall be pecuniarily or otherwise interested in any organization of employees or any carrier.

The board shall report its findings to the President with respect to the said dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Southern Pacific Company (Pacific Lines) or its employees in the conditions out of which the said dispute arose.

HARRY S. TRUMAN

THE WHITE HOUSE,
March 30, 1949.

[F. R. Doc. 49-2460; Filed, Mar. 30, 1949; 2:25 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

NATIONAL MILITARY ESTABLISHMENT

Under authority of § 6.1 (a) of Executive Order 9830, and at the request of the Secretary of Defense, the Commission has determined that five additional positions of Special Adviser to the Secretary should be excepted from the competitive service until December 31, 1952, and that the positions of one Industrial Engineer and four Industrial Specialists in the Munitions Board should likewise be excepted. Effective upon publication in the FEDERAL REGISTER, § 6.104 is amended as follows:

§ 6.104 *National Military Establishment*—(a) *Office of the Secretary of Defense.* * * *

(3) Five Special Advisers to the Secretary of Defense; and until December 31, 1952, twelve additional positions of Special Adviser to the Secretary of Defense.

* * * * *

(c) *Munitions Board.* * * *

(2) One Industrial Engineer.

(3) Four Industrial Specialists.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633, E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 49-2429; Filed, Mar. 31, 1949; 8:53 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 418—WHEAT CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1950 AND SUCCEEDING CROP YEARS

The Federal Crop Insurance Program is part of the general program of the

(Continued on p. 1457)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

United States Department of Agriculture administered for the benefit of agriculture.

By virtue of the authority contained in the Federal Crop Insurance Act, as amended, the "Regulations for Continuous Contracts Covering 1949 and Succeeding Crop Years," as amended (13 F. R. 2607, 5146, 6475, 14 F. R. 433), which shall continue in full force and effect for the 1949 crop year, are hereby amended for the 1950 and succeeding crop years to read as set forth below. The provisions of this subpart shall, until amended or superseded, apply to all continuous wheat contracts as they relate to the 1950 and succeeding crop years.

Sec.

AUTHORITY: §§ 418.151 to 418.168, issued under secs. 506 (e), 507 (c), 508, 509, and 516 (b) of the Federal Crop Insurance Act, as amended, 52 Stat. 73–75, 77, 61 Stat. 718; 7 U. S. C. 1506 (e), 1507 (c), 1508, 1509, 1516 (b).

§ 418.151 *Availability of wheat crop insurance.* (a) Wheat crop insurance under continuous contracts will be provided only in accordance with this subpart in not to exceed the number of counties prescribed by the Federal Crop Insurance Act, as amended. A list of these counties will be published annually by amendment to this section.

(b) Insurance on either a commodity coverage basis or a monetary coverage basis may be offered under this subpart. However, insurance on only one such basis will be provided in a county. The type of coverage applicable to each county will be designated annually (1) by the Corporation and shown on the county actuarial table and (2) by amendment to this section.

(c) Insurance will not be provided with respect to applications for wheat insurance filed in a county in accordance with this subpart unless such written applications, together with wheat crop insurance contracts in force for the ensuing crop year, cover the minimum number of farms prescribed by the Federal Crop Insurance Act, as amended. For this purpose an insurance unit shall be counted as one farm.

§ 418.152 *Coverages per acre.* The Corporation shall establish coverages per acre by areas which shall not be in excess of the maximum limitations prescribed in the Federal Crop Insurance Act, as amended. Coverages so established shall be shown on the county actuarial table and shall be on file in the county office and may be revised from year to year as the Corporation may elect. The coverage per acre for any specific acreage shall be the coverage (for the applicable farming practice, if any) approved by the Corporation for the coverage and rate area in which the acreage is located.

§ 418.153 *Premium rates.* The Corporation shall establish premium rates per acre by areas for all acreage for which coverages are established and such rates shall be those deemed adequate to cover claims for wheat crop losses and to provide a reasonable reserve against unforeseen losses. Premium rates so established shall be shown on the county actuarial table and shall be on file in the county office and may be revised from year to year as the Corporation may elect. The premium rate per acre for any specific acreage shall be the premium rate (for the applicable farming practice, if any) approved by the Corporation for the coverage and rate area in which the acreage is located.

§ 418.154 *Application for insurance.* Application for insurance on a form entitled "Application for Wheat Crop Insurance" may be made by any person to cover his interest as landlord, owner-operator, or tenant, in a wheat crop. For any crop year applications shall be submitted to the county office on or before the following applicable closing date preceding such crop year.

State and County	*Date*
California	Oct. 15.
Colorado	Aug. 31.
Idaho	Sept. 30.
Illinois	Sept. 15.
Indiana	Do.
Kansas	Aug. 31.
Maryland	Sept. 15.
Michigan	Do.
Minnesota	Mar. 31.
Missouri	Sept. 15.
Montana:	
Chouteau	Aug. 31.
Fergus	Do.
Hill	Do.
Judith Basin	Do.
Liberty	Do.
Pondera	Do.
All other counties	Mar. 31.
Nebraska	Aug. 31.
New Mexico	Do.
New York	Sept. 15.
North Dakota	Mar. 31.
Ohio	Sept. 15.
Oklahoma	Aug. 31.
Oregon	Sept. 30.
Pennsylvania	Sept. 15.
South Dakota:	
Meade	Aug. 31.
Tripp	Do.
All other counties	Mar. 31.
Texas	Aug. 31.
Utah	Sept. 15.
Washington	Sept. 30.
Wyoming	Aug. 31.

§ 418.155 *The contract.* Upon acceptance of an application for insurance by a duly authorized representative of the Corporation, the contract shall be in effect and will consist of the application and the policy issued by the Corporation. The provisions of the commodity coverage policy are shown in § 418.167 and the provisions of the monetary coverage policy are shown in § 418.168.

§ 418.156 *Reduction of premium based on good experience.* The insured's annual premium may be reduced in any year as follows: (a) Not to exceed 50 percent for commodity coverage insurance if it is determined by the Corporation that the accumulated balance, expressed in bushels, of premiums over indemnities on consecutively insured wheat crops exceeds his total coverage (on a harvested acreage basis), or (b) not to exceed 25 percent for monetary coverage insurance if it is determined by the Corporation that the cash equivalent (based on the predetermined price for that crop year) of the accumulated balance, expressed in bushels, of premiums over indemnities on consecutively insured wheat crops exceeds his total coverage (computed on a harvested acreage basis). As used in this section, "consecutively insured crops" means the wheat crops insured in consecutive years (ending with the current crop year) but excluding the 1945 crop if no application for insurance was submitted. Failure to apply for insurance in any year, except 1945, shall render any person ineligible for the benefits of any premium balance accumulated prior to such year if insurance is offered in the county in which such person's farm is located, even though insurance

may not be provided in the county during such year because of failure to meet the minimum participation requirement: *Provided, however,* That failure to submit an application for insurance for any year will not render a person ineligible for the benefits of this section, if (1) the failure to submit an application was due to service in the active military or naval service of the United States, or (2) the insured established to the satisfaction of the Corporation, prior to the applicable 1946 maturity date, that failure to submit an application for any crop year prior to 1946 was due to the fact that wheat was not seeded in that year. Nothing in this section shall create in the insured any right to a reduced premium.

§ 418.157 *Person to whom indemnity shall be paid.* (a) Any indemnity payable under a contract shall be paid to the insured or such other person as may be entitled to the benefits of the contract under the provisions of this subpart, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, equity, or bankruptcy directed against the insured or such other person, or against any indemnity alleged to be due to such person; nor shall the Corporation or any officer, employee, or representative thereof, be a proper party to any suit or action with reference to such indemnity, nor be bound by any judgment, order, or decree rendered, or entered therein. No officer, agent, or employee of the Corporation shall, because of any such process, order, or decree, pay or cause to be paid to any person other than the insured or other person entitled to the benefits of the contract, any indemnity payable in accordance with the provisions of the contract. Nothing herein contained shall excuse any person entitled to the benefits of the contract from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.

(b) The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which indemnity payment may be made and of the person(s) to whom such payment will be made shall be final and conclusive and payment of an indemnity to such person(s) shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and settled and shall be a bar to recovery by any other person.

§ 418.158 *Public notice of indemnities paid.* The Corporation shall provide for the posting annually in each county at the county courthouse of a list of indemnities paid for losses on farms in such county.

§ 418.159 *Death, incompetence, or disappearance of insured.* (a) If the insured dies, is judicially declared incompetent, or disappears after seeding the wheat crop in any year but before the time of loss, and his insured interest in the wheat crop is a part of his estate at such time, or if the insured dies, is judicially declared incompetent, or disappears subsequent to such time, the indemnity, if any, shall be paid to the legal representative of his estate, if one is appointed or is duly qualified. If no such representative is or will be so qualified the indemnity shall be paid to the persons beneficially entitled to share in the insured interest in the crop or to any one or more of such persons on behalf of all such persons: *Provided, however,* That if the indemnity exceeds $500, the Corporation may withhold the payment of the indemnity until a legal representative of the insured's estate is duly qualified to receive such payment.

(b) If the insured dies, is judicially declared incompetent or disappears after the seeding of the wheat crop in any year but before the time of loss, and his interest in the crop is not a part of his estate at such time, the indemnity, if any, shall be paid to the person(s) who succeeded to his interest in the crop in the manner provided for in the wheat crop insurance policy.

(c) If an applicant for insurance or the insured, as the case may be, dies, is judicially declared incompetent, or disappears less than 15 days before the applicable calendar closing date for the filing of applications for insurance in any year, and before the beginning of seeding of the wheat crop in such year, whoever succeeds him on the farm with the right to seed the wheat crop as his heir or heirs, administrator, executor, guardian, committee or conservator, shall be substituted for the original applicant or the insured upon filing with the county office, within 15 days (unless such period is extended by the Corporation) after the date of such death, judicial declaration, or termination of the period which establishes disappearance within the meaning of this subpart, or before the date of the beginning of seeding, whichever is earlier, a statement in writing in the form and manner prescribed by the Corporation, requesting such substitution and agreeing to assume the obligations of the original applicant or the insured arising out of such application or the contract: *Provided, however,* That any substitution made pursuant to this paragraph shall be effective only with respect to the wheat crop to be seeded in the ensuing crop year, and the contract shall terminate at the end of such year. If no such statement is filed, as required by this paragraph, the original application or contract shall be void.

(d) In case of death of the insured after the seeding of either winter or spring wheat is begun for any crop year, any additional acreage of that type of wheat (winter or spring) which is seeded for the insured's estate for that crop year shall be covered by the contract.

(e) Subject to the provisions of paragraph (c) of this section, the contract shall terminate upon death, judicial declaration of incompetence, or disappearance of the insured, except that if such death, judicial declaration of incompetence, or disappearance occurs after the seeding of the wheat crop in any crop year but before the end of the insurance period for such year, the contract shall terminate at the end of such insurance period.

(f) The insured shall be deemed to have disappeared within the meaning of this subpart if he fails to file with the county office written notice of his new mailing address within 180 calendar days after any communication by or on behalf of the Corporation is returned undeliverable at the last known address of the insured.

§ 418.160 *Fiduciaries.* Any indemnity payable under a contract entered into in the name of a fiduciary who is no longer acting in such capacity at the time for the payment of indemnity will be made to the succeeding fiduciary upon appropriate application and proof satisfactory to the Corporation of his incumbency. If there is no succeeding fiduciary, payment of the indemnity shall be made to the persons beneficially entitled under this subpart to the insured interest in the crop, to the extent of their respective interests, upon proper application and proof of the facts: *Provided, however,* That the settlement may be made with any one or more of the persons in behalf of all the persons so entitled, whether or not the person to whom payment is made has been authorized by the other interested persons to receive such payment.

§ 418.161 *Assignment or transfer of claims for refunds of excess note payments not permitted.* No claim for a refund of an excess note payment or any part thereof, or any interest therein, shall be assignable or transferable, notwithstanding any assignment of the contract or any transfer of interest in any wheat crop covered by the contract. Refund of any excess note payment will be made only to the person who made such payment, except as provided in § 418.162.

§ 418.162 *Refund of excess note payment in case of death, incompetence, or disappearance.* In any case where a person who is entitled to a refund of an excess note payment has died, has been judicially declared incompetent, or has disappeared, the provisions of § 418.159 with reference to the payment of indemnities in any such case shall be applicable with respect to the making of any such refund.

§ 418.163 *Creditors.* An interest (including an involuntary transfer) in an insured wheat crop because of the existence of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or other process shall not entitle any holder of any such interest to any benefits under the contract.

§ 418.164 *Changes from partial insurance protection.* Where the contract provides for partial insurance protection, the premium and any indemnity shall be 65 percent of the amount otherwise computed in accordance with the contract. An insured with a continuous contract in effect in 1949 which provided for 65 percent of maximum protection may continue with such partial protection or change to maximum protection. Request for such change shall be made on a form entitled "Agreement" filed with the Corporation on or before the applicable cancelation date of any year. Upon acceptance by the Corporation of such form the change shall become effective begining with wheat seeded for har-

vest in the calendar year following the applicable cancellation date.

§ 418.165 *Rounding of fractional units.* In the case of commodity coverage insurance, the premium shall be rounded to the nearest tenth of a bushel and the total coverage to the nearest bushel. In the case of monetary coverage insurance, the premium, the total coverage and the value of the total production shall be rounded to the nearest cent. In any case, total production shall be rounded to the nearest bushel. Fractions of acres shall be rounded to the nearest tenth of an acre. Computations shall be carried one digit beyond the digit that is to be rounded. If the last digit is 1, 2, 3, or 4, the rounding shall be downward. If the last digit is 5, 6, 7, 8, or 9, the rounding shall be upward.

§ 418.166 *Changes in continuous contracts covering the 1949 and succeeding crop years.* The commodity coverage and monetary coverage wheat crop insurance policies issued for 1949 and succeeding crop years shall be amended for 1950 and succeeding crop years by rider so that the terms and conditions of such policies will conform with the terms and conditions of the applicable policy set forth herein, except with respect to partial insurance protection in the commodity coverage policy which shall conform with § 418.164.

§ 418.167 *The commodity coverage policy.* The provisions of the commodity coverage policy for 1950 and succeeding years are as follows:

In consideration of the representations and provisions in the application upon which this policy is issued, which application is made a part of the contract, and subject to the terms and conditions set forth or referred to herein, the Federal Crop Insurance Corporation (hereinafter designated as the Corporation) does hereby insure

---------- ----------
Name Policy number

---------- ---------- ----------
Address County State

(hereinafter designated as the insured) against loss of production on his wheat crop while in the field, due to unavoidable causes including drought, flood, hail, wind, frost, winter-kill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease and such other unavoidable causes as may be determined by the Board of Directors of the Corporation. (For irrigated acreage, see section 31.) In witness whereof, the Federal Crop Insurance Corporation has caused this policy to be issued this ---------- day of ---------- 19----.

FEDERAL CROP INSURANCE CORPORATION.

By: ----------
State Crop Insurance Director.

TERMS AND CONDITIONS

1. *Kinds of wheat insured.* The wheat to be insured shall be winter and spring wheat seeded for harvest as grain. If the insured seeds only a part of his wheat for harvest as grain in any year of the contract, he shall submit with his acreage report of wheat seeded a designation of any acreage of wheat seeded for any purpose other than harvest as grain. Upon approval of the Corporation, the acreage used in computing the premium and total coverage shall not include acreage so designated. However, any wheat threshed from such acreage shall be considered as wheat produced on the insured acreage in determining any loss under the contract. The contract shall not provide insurance for volunteer wheat, wheat seeded with a mixture of flax or other small grains, vetch, Austrian winter peas, dry edible peas, or a type of wheat which the Corporation determines is not adapted to the area. However, in determining production, volunteer small grains, volunteer vetch, volunteer Austrian winter peas and volunteer dry edible peas growing with the seeded wheat crop, and small grains seeded with the growing wheat crop on acreage not released by the Corporation, shall be counted as wheat.

2. *Insurable acreage.* For each crop year of the contract, any acreage is insurable only if a coverage is shown therefor on the county actuarial table (including maps and related forms) on the applicable calendar closing date for filing applications for that crop year, provided the farming practice followed on such acreage is one for which a coverage was established.

3. *Responsibility of insured to report acreage and interest.* (a) Promptly after seeding wheat (winter or spring) each year, the insured shall submit to the Corporation, on a form entitled "Wheat Crop Insurance Acreage Report," a report over his signature of all acreage in the county seeded to wheat in which he has an interest at the time of seeding. This report shall show the acreage of wheat for each insurance unit and his interest in each at the time of seeding. If the insured does not have an insurable interest in wheat seeded in any year, the acreage report shall nevertheless be submitted promptly after the seeding of wheat is generally completed in the county. Any acreage report submitted by the insured shall be considered final and not subject to change by the insured.

(b) The Corporation reserves the right to charge the insured $2.00 if the insured fails to submit an acreage report within 30 days after seeding of the applicable type of wheat (winter or spring) is generally completed in the county, as determined by the Corporation.

(c) The Corporation may elect to determine that the insured acreage is "zero" if the insured fails to file an acreage report within 30 days after seeding of the applicable type of wheat (winter or spring) is generally completed in the county, as determined by the Corporation.

(d) Failure of the county office to request submission of such report or to send a personal representative to obtain the report shall not relieve the insured of the responsibility to make such report.

4. *Insured acreage.* The insured acreage with respect to each insurance unit shall be the acreage of wheat seeded for harvest as grain as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, except that insurance shall not attach with respect to (a) any acreage seeded to wheat which is destroyed or substantially destroyed (as defined in section 15) and on which it is practical to reseed to wheat, as determined by the Corporation, and such acreage is not reseeded to wheat, (b) any acreage initially seeded to wheat too late to expect to produce a normal crop, as determined by the Corporation, (c) new ground acreage, and (d) any acreage seeded to harvest in a crop year for which cancelation of the contract becomes effective. (For irrigated acreage, see section 31.) The Corporation reserves the right to limit the insured acreage on any farm to the wheat allotment or permitted acreage established under any act of Congress including the Agricultural Adjustment Act of 1938, as amended.

5. *Insured interest.* The insured interest in the wheat crop covered by the contract shall be the interest of the insured at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect. For the purpose of determining the amount of loss the insured interest shall not exceed the insured's actual interest at the time of loss or the beginning of harvest whichever occurs first.

6. *Coverage per acre.* The coverage per acre shall be the applicable number of bushels of wheat established for the area in which the insured acreage is located, and shall be shown by practice(s) on the county actuarial table on file in the county office. The coverage per acre is progressive depending upon whether the acreage is (a) released and seeded to a substitute crop, (b) not harvested and not seeded to a substitute crop or (c) harvested.

7. *Fixed price.* The fixed price per bushel for any crop year shall be 90 percent of the parity price of wheat as officially determined by the Secretary of Agriculture for January 15 of the calendar year in which the crop is to be harvested, with differentials determined by the Corporation for the location of the insurance unit. Each year the amount of the premium and the indemnity, if any, shall be determined by using the fixed price per bushel for such year. This price shall be on file in the county office.

8. *Insurance period.* Insurance with respect to any insured acreage shall attach at the time the wheat is seeded. Insurance shall cease with respect to any portion of the wheat crop covered by the contract upon threshing or removal from the field, but in no event shall the insurance remain in effect later than October 31 of each year, unless such time is extended in writing by the Corporation.

9. *Life of contract, cancellation thereof.* (a) Subject to the provisions of paragraph (d) of this section, the contract shall be in effect for the first crop year specified on the application and shall continue in effect for each succeeding crop year until either party gives to the other party, on or before the cancellation date of any year, written notice of cancellation effective beginning with wheat seeded for harvest in the next calendar year. Any notice of cancellation given by the insured to the Corporation shall be submitted in writing to the county office.

(b) If the insured cancels the contract, he shall not be eligible for crop insurance on wheat seeded or to be seeded in the county for harvest in the next calendar year unless he subsequently files an application for insurance on or before the cancellation date preceding such year.

(c) If for two consecutive crop years no wheat in which the insured has an insurable interest is seeded in the county, the contract shall terminate.

(d) If the minimum participation requirement as established by the Corporation is not met for any year the contract shall continue in force only to the end of the crop year for which such requirement is not met, except that if the minimum participation requirement is met on or before the next succeeding applicable closing date the contract shall continue to be in force.

10. *Changes in contract.* The Corporation reserves the right to change the premium rate(s), insurance coverage(s) and other terms and provisions of the contract from year to year. Notice of such changes shall be mailed to the insured at least 15 days prior to the applicable cancellation date shown herein. Failure of the insured to cancel the contract as provided in section 9 shall constitute his acceptance of any such changes. If no notice is mailed to the insured, the terms and provisions of the contract for the prior year shall continue in force.

11. *Causes of loss not insured against.* The contract shall not cover loss of production caused by: (a) Failure to follow recognized good farming practices; (b) poor farming practices, including but not limited to the use of defective or unadapted seed, failure to plant a sufficient quantity of seed, fail-

ure properly to prepare the land for seeding or properly to seed, care for or harvest and thresh the insured crop (including unreasonable delay thereof); (c) over-pasturage; (d) following different fertilizer or farming practices than those considered in establishing the coverage per acre; (e) seeding wheat on land which is generally not considered capable of producing a wheat crop comparable to that produced on the land considered in establishing the coverage per acre; (f) seeding excessive acreage under abnormal conditions; (g) seeding another crop with the wheat or in the growing wheat crop; (h) seeding wheat under conditions of immediate hazard; (i) inability to obtain labor, seed, fertilizer, machinery, repairs or insect poison; (j) breakdown of machinery, or failure of equipment due to mechanical defects; (k) neglect or malfeasance of the insured or of any person in his household or employment or connected with the farm as tenant or wage hand; (l) domestic animals or poultry; or (m) theft. (For irrigated acreage, see section 31.)

12. *Amount of annual premium.* (a) The premium rate per acre will be the applicable number of bushels of wheat established by the Corporation for the coverage and rate area in which the insured acreage is located and will be shown by practices on the county actuarial table on file in the county office. The annual premium for each insurance unit under the contract will be based upon (1) the insured acreage of wheat, (2) the applicable premium rate(s), (3) the insured interest in the crop at the time of seeding, and (4) the fixed price. There will be a reduction in the annual premium for each insurance unit of one percent in cases where the insured acreage on the insurance unit is as much as 25 acres and does not exceed 74.9 acres, and an additional one percent reduction for each additional 50 acres or fraction thereof on the insurance unit. However, the total reduction shall not exceed 20 percent. The annual premium for the contract shall be the total of the premiums computed for the insured for all insurance units covered by the contract. The annual premium with respect to any insured acreage shall be regarded as earned when the wheat crop on such acreage is seeded.

(b) The insured's annual premium may be reduced in any year not to exceed 50 percent if it is determined by the Corporation that the accumulated balance (expressed in bushels) of premiums over indemnities on consecutively insured wheat crops exceeds his total coverage (computed on a harvested acreage basis). Nothing in this paragraph (b) shall create in the insured any right to a reduced premium.

13. *Manner of payment of premium.* (a) The applicant executes a premium note by signing the application for wheat crop insurance. This note represents a promise to pay to the Corporation annually during the life of the contract, on or before the applicable maturity date shown in section 32, the premium for all insurance units covered by the contract.

(b) A discount of five percent shall be allowed on any earned annual premium which is paid in full on or before the applicable discount date shown in section 32 if the insured has submitted to the Corporation at the county office his winter wheat acreage report on or before December 31 of the crop year and his spring wheat acreage report on or before June 15 of the crop year, except that for California the acreage report for all wheat shall be submitted on or before March 31 of the crop year.

(c) Any premium note not paid at maturity shall bear interest computed not on a per annum basis but as follows: Three percent on the principal amount not paid on or before October 31 following the maturity date, and an additional one percent on the principal amount owing at the end of each two calendar-months period thereafter.

(d) Payment on any annual premium shall be made by means of cash or by check, money order, postal note, or bank draft payable to the order of the Treasurer of the United States. All checks and drafts will be accepted subject to collection and payment tendered shall not be regarded as paid unless collection is made.

(e) Any unpaid amount of any annual premium plus any interest due may be deducted (either before or after the date of maturity) from any indemnity payable by the Corporation, from the proceeds of any commodity loan to the insured, and from any payment made to the insured under the Soil Conservation and Domestic Allotment Act, as amended, or any other act of Congress or program administered by the United States Department of Agriculture. There shall be no refund of any annual premium overpayment of less than $1.00 unless written request for such refund is received by the Corporation within one year after the payment thereof.

14. *Notice of loss or damage.* (a) Unless otherwise provided by the Corporation, if a loss under the contract is probable, notice in writing shall be given the Corporation at the county office immediately after any material damage to the insured crop. The crop shall not be harvested, removed, or any other use made of it until it has been inspected by the Corporation.

(b) Unless otherwise provided by the Corporation, if, at the completion of threshing of the insured wheat crop, a loss under the contract has been sustained, notice in writing shall be given immediately to the Corporation at the county office. If such notice is not given within 15 days after threshing is completed, the Corporation reserves the right to reject any claim for indemnity. This notice is in addition to any notice required by paragraph (a) of this section.

15. *Released acreage.* Any insured acreage on which the wheat crop has been destroyed or substantially destroyed may be released by the Corporation for planting to a substitute crop or to be put to another use. The wheat crop shall be deemed to have been substantially destroyed if the Corporation determines that it has been so badly damaged that farmers generally in the area where the land is located and on whose farms similar damage occurred would not further care for the crop or harvest any portion thereof. No insured acreage may be planted to a substitute crop or put to another use until the Corporation releases such acreage. On any acreage where the wheat has been partially destroyed but not released by the Corporation, proper measures shall be taken to protect the crop from further damage. There shall be no abandonment of any crop or portion thereof to the Corporation.

16. *Time of loss.* Any loss shall be deemed to have occurred at the end of the insurance period, unless the entire wheat crop on the insurance unit was destroyed or substantially destroyed earlier, in which event the loss shall be deemed to have occurred on the date of such damage, as determined by the Corporation.

17. *Proof of loss.* If a loss is claimed, the insured shall submit to the Corporation a form entitled "Statement in Proof of Loss," containing such information regarding the manner and extent of the loss as may be required by the Corporation. The statement in proof of loss shall be submitted not later than sixty days after the time of loss, unless the time for submitting the claim is extended in writing by the Corporation. It shall be a condition precedent to any liability under the contract that the insured establish the amount of any loss for which claim is made, and that such loss has been directly caused by one or more of the hazards insured against by the contract during the insurance period for the crop year for which the loss is claimed, and that the insured further establish that the loss has not arisen from or been caused by, either directly or indirectly, any of the causes of loss not insured against by the contract. If a loss is claimed, any wheat acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

18. *Insurance unit.* Losses shall be determined separately for each insurance unit except as provided in section 19 (b). An insurance unit consists of (a) all the insurable acreage of wheat in the county in which the insured has 100 percent interest in the crop at the time of seeding, or (b) all the insurable acreage of wheat in the county owned by one person which is operated by the insured as a share tenant, or (c) all the insurable acreage of wheat in the county which is owned by the insured and is rented to one share tenant at the time of seeding. For any crop year of the contract acreage shall be considered to be located in the county if a coverage is shown therefor on the county actuarial table. Land rented for cash or for a fixed commodity payment shall be considered as owned by the leasee.

19. *Amount of loss.* (a) The amount of loss with respect to any insurance unit shall be determined by multiplying the seeded acreage (exclusive of any acreage to which insurance did not attach) by the applicable coverage per acre and subtracting therefrom the total production for the seeded acreage and multiplying the remainder by the insured interest. However, if the seeded acreage on the insurance unit exceeds the insured acreage on the insurance unit, the amount of loss so determined shall be reduced on the basis of the ratio of the insured acreage to the seeded acreage, or if the premium computed for the insured acreage is less than the premium computed for the seeded acreage, the amount of loss determined for the seeded acreage may be reduced on the basis of the ratio of the premium computed for the insured acreage to the premium computed for the seeded acreage, if the Corporation so elects. The total production for an insurance unit shall include all production determined in accordance with the following schedule:

SCHEDULE

Acreage classification	*Total production in bushels*
1. Acreage on which wheat is threshed (exclusive of any acreage shown in item 2 below).	1. Actual production not including wheat in a mixture with other small grains which were seeded in the growing wheat crop on released acreage.
2. Acreage on which threshed wheat as determined by the Corporation (i) is not eligible for a Commodity Credit Corporation loan because of the quality of the wheat and would not meet these loan requirements if properly handled, and (ii) has a value per bushel which is less than the lower of the fixed price or the county loan rate for the lowest grade wheat of the same class eligible for loan.	2. The number of bushels obtained by (i) multiplying the actual production by the value per bushel as determined by the Corporation, and (ii) dividing the result thus obtained by the lower of the fixed price or the county loan rate for the lowest grade wheat of the same class eligible for loan.
3. Acreage not threshed but otherwise harvested as grain.	3. Appraised production.

SCHEDULE—Continued

Acreage classification—Continued	*Total production in bushels*—Con.
4. Acreage released by the Corporation and planted to a substitute crop.	4. That portion of the appraised production which is in excess of the coverage.
5. Acreage not harvested and not seeded to a substitute crop.	5. That portion of the appraised production which is in excess of the number of bushels determined by subtracting (i) the coverage for such acreage from (ii) the coverage for such acreage if it were harvested.
6. Acreage put to another use without being released by the Corporation.	6. Appraised production but not less than the product of (i) such acreage and (ii) the coverage per acre.
7. Acreage with reduced yield due solely to any cause(s) not insured against.	7. Appraised number of bushels by which production has been reduced but not less than the product of (i) such acreage and (ii) the coverage per acre, minus any wheat harvested.
8. Acreage with reduced yield due partially to a cause(s) not insured against and partially to a cause(s) insured against.	8. Appraised number of bushels by which production has been reduced because of any cause(s) not insured against.

(b) If the production from two or more insurance units is commingled and the insured fails to establish and maintain records satisfactory to the Corporation of acreage or the production from each, the insurance with respect to such units may be voided by the Corporation for the crop year and the premium forfeited by the insured. However, if all the component parts are insured the total coverage for the component parts may be considered as the total coverage for the combination, if the Corporation so elects, in which case any loss for such combination shall be determined as outlined in paragraph (a) of this section. Where the insured fails to establish and maintain separate records, satisfactory to the Corporation, of uninsured acreage and production therefrom and for one or more insurance units or portions thereof, any production from such acreage which is commingled with production from the insured acreage shall be considered to have been produced on the insured acreage, or the insurance with respect to such unit(s) under the contract may be voided by the Corporation for the crop year and the premium forfeited by the insured.

(c) The cash amount of the indemnity shall be determined by multiplying the amount of the loss in bushels by the fixed price.

20. *Payment of indemnity.* (a) Indemnities shall be paid only by check. The amount of indemnity for which the Corporation may be liable will be payable within thirty days after satisfactory proof of loss is approved by the Corporation, but if payment is delayed for any reason, the Corporation shall not be liable for interest or damages on account of such delay.

(b) Indemnities shall be subject to all provisions of the contract, including the right of the Corporation to deduct from any indemnity the unpaid amount of any earned premium plus any interest due or any other obligation of the insured to the Corporation.

(c) Any indemnity payable under a contract shall be paid to the insured or such other person as may be entitled to the benefits under the provisions of the contract, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, equity, or bankruptcy, directed against the insured or such other person, or against any indemnity alleged to be due to such person; nor shall the Corporation or any officer, employee, or representative thereof, be a proper party to any suit or action with reference to such indemnity, nor be bound by any judgment, order, or decree rendered or entered therein. Nothing herein contained shall excuse any person entitled to the benefits of the contract from full compliance with, or performance of, any lawful judgment, order or decree with respect to the disposition of any sums paid thereunder as an indemnity.

(d) If a check issued in payment of an indemnity is returned undeliverable at the last known address of the payee, and if such payee or other person entitled to the indemnity makes no claim for payment within two years after the issuance of the check, such claim shall not thereafter be payable, except with the consent of the Corporation.

21. *Payment to transferee.* (a) If the insured transfers all or a part of his insured interest in a wheat crop before the beginning of harvest or the time of loss, whichever occurs first, he shall immediately notify the Corporation thereof in writing at the county office. The transferee under such a transfer will be entitled to the benefits of the contract with respect to the interest so transferred, provided the transferee immediately following the transfer makes suitable arrangements with the Corporation for the payment of any premium with respect to the interest so transferred, whereupon the transferee and the transferor shall be jointly and severally liable for the amount of such premium. Any transfer shall be subject to any collateral assignment made by the original insured in accordance with section 25. However, the Corporation shall not be liable for a greater amount of indemnity in connection with the insured crop than would have been paid if the transfer had not taken place.

(b) An involuntary transfer of an insured interest in a wheat crop solely because of the existence of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or other process shall not entitle any holder of any such interest to any benefits under the contract.

(c) Any deduction to be made from an indemnity payable to the transferee shall not exceed the annual premium plus any interest due on the land involved in the transfer for the crop year in which the transfer is made, plus the unpaid amount of any other obligation of the transferee to the Corporation.

(d) If, as a result of any transfer, diverse interests appear with respect to any insurance unit, any indemnity payable with respect to such unit may be paid jointly to all persons having the insured interest in the crop at the time harvest is commenced or the time of loss, whichever occurs first, or to one of such persons on behalf of all such persons, and payment in any such manner shall constitute a complete discharge of the Corporation's liability with respect to such unit under the contract.

(e) If a transfer is effected in accordance with paragraph (a) above, the contract of the transferor shall cover the interest so transferred only to the end of the insurance period for the crop year during which the transfer is made.

22. *Determination of person to whom indemnity shall be paid.* In any case where the insured has transferred his interest in all or a part of the wheat crop on any insurance unit, or has ceased to act as a fiduciary, or has died, has been judicially declared incompetent or has disappeared, payment in accordance with the provisions of the contract will be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which payment may be made and of the person(s) to whom such payment will be made shall be final and conclusive. Payment of an indemnity under this section shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and settled and shall be a bar to recovery by any other person.

23. *Other insurance.* (a) If the insured has or acquires any other insurance against substantially all the risks that are insured against by the Corporation under the contract, regardless of whether such other insurance is valid or collectible, the liability of the Corporation shall not be greater than its share would be if the amount of its obligations were divided equally between the Corporation and such other insurer.

(b) In any case where an indemnity is paid to the insured by another Government agency because of damage to the wheat crop, the Corporation reserves the right to determine its liability under the contract taking into consideration the amount paid by such other agency.

24. *Subrogation.* The Corporation may require from the insured an assignment of all rights of recovery against any person(s) for loss or damage to the extent that payment therefor is made by the Corporation, and the insured shall execute all papers required and shall do everything that may be necessary to secure such rights.

25. *Collateral assignment.* The original insured may assign his right to an indemnity under the contract by executing a form entitled "Collateral Assignment" and upon approval thereof by the Corporation the interest of the assignee will be recognized, including the right of the assignee to submit a "Statement in Proof of Loss" if the insured refuses to submit or disappears without having submitted such statement.

26. *Records and access to farm.* For the purpose of enabling the Corporation to determine any loss that may have occurred under the contract, the insured shall keep, or cause to be kept, for one year after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition, of all wheat produced on each insurance unit covered by the contract, and on any uninsured acreage in the county in which he has an interest. Such records shall be made available for examination by the Corporation, and as often as may be reasonably required, any person(s) designated by the Corporation shall have access to the farm(s).

27. *Voidance of contract.* The contract may be voided and the premium forfeited to the Corporation without the Corporation's waiving any right or remedy, including its right to collect the amount of the note executed by the insured, whether before or after maturity, if (a) at any time the insured has concealed any material fact or made any false or fraudulent statements relating to the contract, the subject thereof, or his interest in the wheat crop covered thereby, or (b) the insured shall neglect to use all reasonable means to produce, care for or save the wheat crop covered thereby, whether before or after damage has occurred, or (c) the insured fails to give any notice, or otherwise fails to comply with the terms of the contract, including the note, at the time and in the manner prescribed.

28. *Modification of contract.* No notice to any representative of the Corporation of the knowledge possessed by any such representative or by any other person shall be held to effect a waiver of or change in any part of the contract, or to estop the Corporation from asserting any right or power under such contract, nor shall the terms of such con-

tract be waived or changed except as authorized in writing by a duly authorized officer or representative of the Corporation; nor shall any provision or condition of the contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers thereunder or by any requirement, act, or proceeding on the part of the Corporation or of its representatives relating to appraisal or to any examination herein provided for.

29. *General.* (a) In addition to the terms and provisions in the application and policy, the Wheat Crop Insurance Regulations for Continuous Contracts in effect for the crop year involved shall govern with respect to (1) death, incompetence, or disappearance of the insured, (2) fiduciaries, (3) prohibition against assignment or transfer of claims for refunds, (4) rounding of fractional units, (5) creditors, (6) minimum participation requirements, and (7) reduction of premium based on good experience.

(b) Copies of the regulations and forms referred to in this policy are available at the county office.

30. *Meaning of terms.* For the purpose of the wheat crop insurance program, the terms:

(a) "Contract" means the accepted application for insurance and this policy.

(b) "County Actuarial Table" means the form and related material (including the crop insurance maps) approved by the Corporation for listing the coverages per acre and the premium rates per acre applicable in the county.

(c) "County office" means the office of the County Agricultural Conservation Association in the county or other office specified by the Corporation.

(d) "Crop year" means the period within which the wheat crop is seeded and normally harvested, and shall be designated by reference to the calendar year in which the crop is normally harvested.

(e) "Harvest" means any mechanical severance from the land of matured wheat for threshing where the wheat crop has not been destroyed or substantially destroyed.

(f) "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

(g) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(h) "Substitute crop" means any crop, except lespedeza, biennial and perennial legumes and perennial grasses, planted on released acreage before harvest of wheat becomes general in the county as determined by the Corporation. Biennial and perennial legumes and perennial grasses seeded with the wheat or in the growing wheat crop shall not be considered a substitute crop. If other small grains are seeded in a growing wheat crop on released acreage, the crop of mixed wheat and other grains shall be considered a substitute crop.

(i) "Tenant" means a person who rents land from another person for a share of the wheat crop or proceeds therefrom produced on such land.

31. *Irrigated acreage.* (a) In addition to the provisions of section 4, where insurance is written on an irrigated basis the following provisions shall apply.

(1) The acreage of wheat which shall be insured on an irrigated basis in any year shall not exceed that acreage which can be irrigated properly with facilities available and with a supply of irrigation water which could reasonably be expected, taking into consideration the amount of water required to properly irrigate the acreage of all irrigated crops on the farm, except that in areas where a part of the wheat is normally irrigated and a part is not normally irrigated, the acreage of wheat which shall be insured on an irrigated basis in any year shall not exceed that acreage which could be irrigated in a normal year with the facilities available. Also, in all Texas counties the acreage of wheat on any farm which shall be insured on an irrigated basis in any year shall not exceed that acreage on which the following irrigation requirements are met: (i) One early season irrigation of at least 3 acre-inches either before seeding the wheat or immediately after seeding the wheat if there is a deficiency of soil moisture at that time, and (ii) one irrigation of not less than 3 acre-inches during the early spring growing season if there is a deficiency of soil moisture at that time.

(2) Insurance shall not attach with respect to acreage seeded to wheat the first year after being leveled.

(b) In addition to the causes of loss insured against shown on the first page of this policy the contract shall cover loss in production due to failure of the water supply from natural causes that could not be foreseen and prevented by the insured, including (1) lowering of the water level in pump wells adequate at the beginning of the growing season to the extent that either deepening the well or drilling a new well would be necessary to obtain an adequate supply of water, (2) failure of public power used for pumping or failure of an irrigation district or water company to deliver water where such failure is not within the control of the insured, and (3) the collapse of casing in wells.

(c) In addition to the causes of loss not insured against shown in section 11, the contract shall not cover loss in production caused by (1) failure to provide adequate casing or properly to adjust the pumping equipment in the event of a lowering of the water level in pump wells when such adjustment can be made without deepening the well, (2) failure properly to apply irrigation water to wheat in proportion to the need of the crop and the amount of water available for all irrigated crops, and (3) shortage of irrigation water on any farm where the Corporation determines that the total acreage of all irrigated crops on the farm is in excess of that which could be irrigated properly with the facilities available and with the supply of irrigation water which could be reasonably expected.

32. *Date table.* For each year of the contract the cancellation date, discount date and maturity date are as follows:

State and county	Cancellation date [1]	Discount date	Maturity date
California	June 30	Mar. 31	June 30
Colorado:			
For spring wheat	Apr. 30	June 15	Do.
For winter wheat	do	Feb. 28	Do.
Idaho	June 30	June 15	July 31
Illinois	do	Feb. 28	June 30
Indiana	do	do	Do.
Kansas	Apr. 30	do	June 15
Maryland	June 30	do	June 30
Michigan	do	do	Do.
Minnesota	Dec. 31	June 15	July 31
Missouri	June 30	Feb. 28	June 30
Montana:			
Chouteau	Apr. 30	June 15	July 31
Fergus	do	do	Do.
Hill	do	do	Do.
Judith Basin	do	do	Do.
Liberty	do	do	Do.
Pondera	do	do	Do.
All others	Dec. 31	do	Do.
Nebraska	Apr. 30	Feb. 28	June 30
New Mexico	do	do	Do.
New York	June 30	do	Do.
North Dakota	Dec. 31	June 15	July 31
Ohio	June 30	Feb. 28	June 30
Oklahoma	Apr. 30	do	June 15
Oregon	June 30	June 15	July 31
Pennsylvania	do	Feb. 28	June 30
South Dakota:			
Meade	Apr. 30	June 15	July 31
Tripp	do	do	Do.
All others	Dec. 31	do	Do.
Texas	Apr. 30	Feb. 28	June 15
Utah:			
For spring wheat	June 30	June 15	July 31
For winter wheat	do	Feb. 28	Do.
Washington	do	June 15	Do.
Wyoming:			
For spring wheat	Apr. 30	do	June 30
For winter wheat	do	Feb. 28	Do.

[1] The cancellation date for any year is the applicable date preceding the calendar year in which the wheat is to be harvested.

§ 418.168 *The monetary coverage policy.* The provisions of the monetary coverage policy for 1950 and succeeding years are as follows:

In consideration of the representations and provisions in the application upon which this policy is issued, which application is made a part of the contract, and subject to the terms and conditions set forth or referred to herein, the Federal Crop Insurance Corporation (hereinafter designated as the Corporation) does hereby insure

---------- ----------
Name Policy number
---------- ---------- ----------
Address County State

(hereinafter designated as the insured) against loss on his wheat crop while in the field, due to unavoidable causes including drought, flood, hail, wind, frost, winter-kill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease and such other unavoidable causes as may be determined by the Board of Directors of the Corporation. (For irrigated acreage see section 31.)

In witness whereof, the Federal Crop Insurance Corporation has caused this policy to be issued this ---------- day of ---------- 19----.

FEDERAL CROP INSURANCE CORPORATION,

By ----------
State Crop Insurance Director.

TERMS AND CONDITIONS

1. *Kinds of wheat insured.* The wheat to be insured shall be winter and spring wheat seeded for harvest as grain. If the insured seeds only a part of his wheat for harvest as grain in any year of the contract, he shall submit with his acreage report of wheat seeded a designation of any acreage of wheat seeded for any purpose other than harvest as grain. Upon approval of the Corporation, the acreage used in computing the premium and total coverage shall not include acreage so designated. However, any wheat threshed from such acreage shall be considered as wheat produced on the insured acreage in determining any loss under the contract.

The contract shall not provide insurance for volunteer wheat, wheat seeded with a mixture of flax or other small grains, vetch, Austrian winter peas, dry edible peas or a type of wheat which the Corporation determines is not adapted to the area. However, in determining production, volunteer small grains, volunteer vetch, volunteer Austrian winter peas and volunteer dry edible peas growing with the seeded wheat crop, and small grains seeded with the growing wheat crop on acreage not released by the Corporation, shall be counted as wheat.

2. *Insurable acreage.* For each crop year of the contract, any acreage is insurable only if a coverage is shown therefor on the county actuarial table (including maps and related forms) on the applicable calendar closing date for filing applications for that crop year, provided the farming practice followed on such acreage is one for which a coverage was established.

3. *Responsibility of insured to report acreage and interest.* (a) Promptly after seeding wheat (winter or spring) each year, the insured shall submit to the Corporation, on a form entitled "Wheat Crop Insurance Acreage Report," a report over his signature of all acreage in the county seeded to wheat in which he has an interest at the time of seeding. This report shall show the acreage of wheat for each insurance unit and his interest in each at the time of seeding. If the insured does not have an insurable interest in wheat seeded in any year, the acreage report shall nevertheless be submitted promptly after the seeding of wheat is generally completed in the county. Any acreage report submitted by the insured shall be considered final and not subject to change by the insured.

(b) The Corporation reserves the right to charge the insured $2.00 if the insured fails to submit an acreage report within 30 days after seeding of the applicable type of wheat (winter or spring) is generally completed in the county, as determined by the Corporation.

(c) The Corporation may elect to determine that the insured acreage is "zero" if the insured fails to file an acreage report within 30 days after seeding of the applicable type of wheat (winter or spring) is generally completed in the county, as determined by the Corporation.

(d) Failure of the county office to request submission of such report or to send a personal representative to obtain the report shall not relieve the insured of the responsibility to make such report.

4. *Insured acreage.* The insured acreage with respect to each insurance unit shall be the acreage of wheat seeded for harvest as grain as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, except that insurance shall not attach with respect to (a) any acreage seeded to wheat which is destroyed or substantially destroyed (as defined in section 15) and on which it is practical to reseed to wheat, as determined by the Corporation, and such acreage is not reseeded to wheat, or (b) any acreage initially seeded to wheat too late to expect to produce a normal crop, as determined by the Corporation, (c) new ground acreage, and (d) any acreage seeded for harvest in a crop year for which cancelation of the contract becomes effective. (For irrigated acreage see section 31.) The Corporation reserves the right to limit the insured acreage on any farm to the wheat allotment or permitted acreage established under any act of Congress including the Agricultural Adjustment Act of 1938, as amended.

5. *Insured interest.* The insured interest in the wheat crop covered by the contract shall be the interest of the insured at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect. For the purpose of determining the amount of loss the insured interest shall not exceed the insured's actual interest at the time of loss or the beginning of harvest whichever occurs first.

6. *Coverage per acre.* The coverage per acre shall be the applicable number of dollars, established for the area in which the insured acreage is located, and shall be shown by practice(s) on the county actuarial table on file in the county office. The coverage per acre is progressive depending upon whether the acreage is (a) released and seeded to a substitute crop, (b) not harvested and not seeded to a substitute crop, or (c) harvested.

7. *Predetermined price.* In determining any loss under the contract, production shall be evaluated at a predetermined price per bushel which the Corporation shall establish annually for the applicable crop year. The predetermined price for the 1950 crop year shall be $1.60 per bushel. For any subsequent crop year, notice of any change in the predetermined price from the prior crop year shall be mailed by the Corporation to the insured at least 15 days before the applicable cancellation date shown herein.

8. *Insurance period.* Insurance with respect to any insured acreage shall attach at the time the wheat is seeded. Insurance shall cease with respect to any portion of the wheat crop covered by the contract upon threshing or removal from the field, but in no event shall the insurance remain in effect later than October 31 of each year, unless such time is extended in writing by the Corporation.

9. *Life of contract, cancellation thereof.* (a) Subject to the provisions of paragraph (d) of this section, the contract shall be in effect for the first crop year specified on the application and shall continue in effect for each succeeding crop year until either party gives to the other party, on or before the cancellation date of any year, written notice of cancellation effective beginning with wheat seeded for harvest in the next calendar year. Any notice of cancellation given by the insured to the Corporation shall be submitted in writing to the county office.

(b) If the insured cancels the contract, he shall not be eligible for crop insurance on wheat seeded or to be seeded in the county for harvest in the next calendar year unless he subsequently files an application for insurance on or before the cancellation date preceding such year.

(c) If for two consecutive crop years no wheat in which the insured has an insurable interest is seeded in the county, the contract shall terminate.

(d) If the minimum participation requirement as established by the Corporation is not met for any year the contract shall continue in force only to the end of the crop year for which such requirement is not met, except that if the minimum participation requirement is met on or before the next succeeding applicable closing date the contract shall continue to be in force.

10. *Changes in contract.* The Corporation reserves the right to change the premium rate(s), insurance coverage(s) and other terms and provisions of the contract from year to year. Notice of such changes shall be mailed to the insured at least 15 days prior to the applicable cancelation date shown herein. Failure of the insured to cancel the contract as provided in section 9 shall constitute his acceptance of any such changes. If no notice is mailed to the insured, the terms and provisions of the contract for the prior year shall continue in force.

11. *Causes of loss not insured against.* The contract shall not cover loss caused by: (a) Failure to follow recognized good farming practice; (b) poor farming practices, including but not limited to the use of defective or unadapted seed, failure to plant a sufficient quantity of seed, failure properly to prepare the land for seeding or properly to seed, care for or harvest and thresh the insured crop (including unreasonable delay thereof); (c) over-pasturage; (d) following different fertilizer or farming practices than those considered in establishing the coverage per acre; (e) seeding wheat on land which is generally not considered capable of producing a wheat crop comparable to that produced on the land considered in establishing the coverage per acre; (f) seeding excessive acreage under abnormal conditions; (g) seeding another crop with the wheat or in the growing wheat crop; (h) seeding wheat under conditions of immediate hazard; (i) inability to obtain labor, seed, fertilizer, machinery, repairs or insect poison; (j) break-down of machinery, or failure of equipment due to mechanical defects; (k) neglect or malfeasance of the insured or of any person in his household or employment or connected with the farm as tenant or wage hand; (l) domestic animals or poultry; or (m) theft. (For irrigated acreage see section 31.)

12. *Amount of annual premium.* The premium rate per acre will be the applicable number of dollars established by the Corporation for the coverage and rate area in which the insured acreage is located and will be shown by practices on the county actuarial table on file in the county office. The annual premium for each insurance unit under the contract will be based upon (a) the insured acreage of wheat, (b) the applicable premium rate(s) and (c) the insured interest in the crop at the time of seeding. There will be a reduction in the annual premium for each insurance unit of one percent in cases where the insured acreage on the insurance unit is as much as 25 acres and does not exceed 74.9 acres, and an additional one percent reduction for each additional 50 acres or fraction thereof on the insurance unit. However, the total reduction shall not exceed 20 percent. The annual premium for the contract shall be the total of the premiums computed for the insured for all insurance units covered by the contract. The annual premium with respect to any insured acreage shall be regarded as earned when the wheat crop on such acreage is seeded. The insured's annual premium may be reduced in any year not to exceed 25 percent if it is determined by the Corporation that the cash equivalent (based on the predetermined price for that crop year) of the accumulated balance, expressed in bushels, of premiums over indemnities on consecutively insured wheat crops exceeds his total coverage (computed on a harvested acreage basis). Nothing in the preceding sentence shall create in the insured any right to a reduced premium.

13. *Manner of payment of premium.* (a) The applicant executes a premium note by signing the application for wheat crop insurance. This note represents a promise to pay to the Corporation annually during the life of the contract, on or before the applicable maturity date shown in section 32 the premium for all insurance units covered by the contract.

(b) A discount of five percent shall be allowed on any earned annual premium which is paid in full on or before the applicable discount date shown in section 32 if the insured has submitted to the Corporation at the county office his winter wheat acreage report on or before December 31 of the crop year and his spring wheat acreage report on or before June 15 of the crop year, except that for California the acreage report for all wheat shall be submitted on or before March 31 of the crop year.

(c) Any premium note not paid at maturity shall bear interest computed not on a per annum basis but as follows: Three percent on the principal amount not paid on or before October 31 following the maturity date, and an additional one percent on the principal amount owing at the end of each two calendar month period thereafter.

(d) Payment on any annual premium shall be made by means of cash or by check, money order, postal note, or bank draft payable to the order of the Treasurer of the United States. All checks and drafts will be accepted subject to collection and payments tendered shall not be regarded as paid unless collection is made.

(e) Any unpaid amount of any annual premium plus any interest due may be deducted (either before or after the date of maturity) from any indemnity payable by the Corporation, from the proceeds of any commodity loan to the insured, and from any payment made to the insured under the Soil Conservation and Domestic Allocation Act, as amended, or any other act of Congress or program administered by the United States Department of Agriculture. There shall be no refund of any annual premium overpayment of less than $1.00 unless written request for such refund is received by the Corporation within one year after the payment thereof.

14. *Notice of loss or damage.* (a) Unless otherwise provided by the Corporation, if a loss under the contract is probable, notice in writing shall be given the Corporation at the county office immediately after any material damage to the insured crop. The crop shall not be harvested, removed, or any other use made of it until it has been inspected by the Corporation.

(b) Unless otherwise provided by the Corporation, if, at the completion of threshing of the insured wheat crop, a loss under the contract has been sustained, notice in writing shall be given immediately to the Corporation at the county office. If such notice is not given within 15 days after threshing is completed, the Corporation reserves the right to reject any claim for indemnity. This notice is in addition to any notice required by paragraph (a) of this section.

15. *Released acreage.* Any insured acreage on which the wheat crop has been destroyed or substantially destroyed may be released by the Corporation for planting to a substitute crop or to be put to another use. The wheat crop shall be deemed to have been substantially destroyed if the Corporation determines that it has been so badly damaged that farmers generally in the area where the land is located and on whose farms similar damage occurred would not further care for the crop or harvest any portion thereof. No insured acreage may be planted to a substitute crop or put to another use until the Corporation releases such acreage. On any acreage where the wheat has been partially destroyed but not released by the Corporation, proper measures shall be taken to protect the crop from further damage. There shall be no abandonment of any crop or portion thereof to the Corporation.

16. *Time of loss.* Any loss shall be deemed to have occurred at the end of the insurance period, unless the entire wheat crop on the insurance unit was destroyed or substantially destroyed earlier, in which event the loss shall be deemed to have occurred on the date of such damage, as determined by the Corporation.

17. *Proof of loss.* If a loss is claimed, the insured shall submit to the Corporation a form entitled "Statement in Proof of Loss," containing such information regarding the manner and extent of the loss as may be required by the Corporation. The statement in proof of loss shall be submitted not later than sixty days after the time of loss, unless the time for submitting the claim is extended in writing by the Corporation. It shall be a condition precedent to any liability under the contract that the insured establish the amount of any loss for which claim is made, and that such loss has been directly caused by one or more of the hazards insured against by the contract during the insurance period for the crop year for which the loss is claimed, and that the insured further establish that the loss has not arisen from or been caused by, either directly or indirectly, any of the causes of loss not insured against by the contract. If a loss is claimed, any wheat acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

18. *Insurance unit.* Losses shall be determined separately for each insurance unit except as provided in section 19 (b). An insurance unit consists of (a) all the insurable acreage of wheat in the county in which the insured has 100 percent interest in the crop at the time of seeding, or (b) all the insurable acreage of wheat in the county owned by one person which is operated by the insured as a share tenant, or (c) all the insurable acreage of wheat in the county which is owned by the insured and is rented to one share tenant at the time of seeding. For any crop year of the contract acreage shall be considered to be located in the county if a coverage is shown therefor on the county actuarial table. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee.

19. *Amount of loss.* (a) The amount of loss with respect to any insurance unit shall be determined by (1) multiplying the seeded acreage (exclusive of any acreage to which insurance did not attach) by the applicable coverage per acre, (2) subtracting therefrom the number of dollars ascertained by multiplying the total production for the seeded acreage by the predetermined price, and (3) multiplying the remainder by the insured interest in such unit. However, if the seeded acreage on the insurance unit exceeds the insured acreage on the insurance unit, the amount of loss so determined shall be reduced on the basis of the ratio of the insured acreage to the seeded acreage, or if the premium computed for the insured acreage is less than the premium computed for the seeded acreage the amount of loss determined for the seeded acreage may be reduced on the basis of the ratio of the premium computed for the insured acreage to the premium computed for the seeded acreage, if the Corporation so elects. The total production for an insurance unit shall include all production determined in accordance with the following schedule:

SCHEDULE

Acreage classification	*Total production in bushels*
1. Acreage on which wheat is threshed (exclusive of any acreage shown in item 2 below).	1. Actual production not including wheat in a mixture with other small grains which were seeded in the growing wheat crop on released acreage.
2. Acreage on which threshed wheat as determined by the Corporation (i) is not eligible for a Commodity Credit Corporation loan because of the quality of the wheat and would not meet these loan requirements if properly handled and (ii) has a value per bushel which is less than the lower of the predetermined price or the county loan rate for the lowest grade wheat of the same class eligible for loan.	2. The number of bushels obtained by (i) multiplying the actual production by the value per bushel as determined by the Corporation, and (ii) dividing the result thus obtained by the lower of the predetermined price or the county loan rate for the lowest grade wheat of the same class eligible for loan.
3. Acreage not threshed but otherwise harvested as grain.	3. Appraised production.
4. Acreage released by the Corporation and planted to a substitute crop.	4. That portion of the appraised production which is in excess of the number of bushels determined by dividing (i) the amount of coverage for such acreage by (ii) the predetermined price.
5. Acreage not harvested and not planted to a substitute crop.	5. Appraised production that would be realized if the crop remained for harvest, except that the first bushel per acre of such production shall not be counted.
6. Acreage put to another use without being released by the Corporation.	6. Appraised production but not less than the product of (i) such acreage and (ii) the bushel equivalent of the coverage per acre for harvested acreage determined on the basis of the predetermined price.
7. Acreage with reduced yield due solely to any cause(s) not insured against.	7. Appraised number of bushels by which production has been reduced but not less than the product of (i) such acreage and (ii) the bushel equivalent of the coverage per acre determined on the basis of the predetermined price, minus any wheat harvested.
8. Acreage with reduced yield due partially to any cause(s) not insured against and partially to any cause(s) insured against.	8. Appraised number of bushels by which production has been reduced because of any cause(s) not insured against.

(b) If the production from two or more insurance units is commingled and the insured fails to establish and maintain records satisfactory to the Corporation of acreage or the production from each, the insurance with respect to such units may be voided by the Corporation for the crop year and the premium forfeited by the insured. However, if all the components parts are insured, the total coverage for the component parts may be considered as the total coverage for the combination, if the Corporation so elects, in which case any loss for such combination shall be determined as outlined in paragraph (a) of this section. Where the insured fails to establish and maintain separate records, satisfactory to the Corporation, of uninsured acreage and production therefrom and for one or more insurance units or portions thereof, any production from such acreage which is commingled with production from the insured acreage shall be considered to have been produced on the insured acreage, or the insurance with respect to such unit(s) under the contract may be voided by the Corporation for the crop year and the premium forfeited by the insured.

20. *Payment of indemnity.* (a) Indemnities shall be paid only by check. The amount of indemnity for which the Corporation may be liable will be payable within thirty days after satisfactory proof of loss is approved by the Corporation, but if payment is delayed for any reason the Corporation shall not be liable for interest or damages on account of such delay.

(b) Indemnities shall be subject to all provisions of the contract, including the right of the Corporation to deduct from any indemnity the unpaid amount of any earned premium plus any interest due or any other obligation of the insured to the Corporation.

(c) Any indemnity payable under a contract shall be paid to the insured or such other person as may be entitled to the benefits under the provisions of the contract, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, equity, or bankruptcy, directed against the insured or such other person, or against any indemnity alleged to be due to such person; nor shall the Corporation or any officer, employee, or representative thereof, be a proper party to any suit or action with reference to such indemnity, nor be bound by any judgment, order or decree rendered or entered therein. Nothing herein contained shall excuse any person entitled to the benefits of the contract from full compliance with, or performance of, any lawful judgment, order, or decree with re-

spect to the disposition of any sums paid thereunder as an indemnity.

(d) If a check issued in payment of an indemnity is returned undeliverable at the last known address of the payee, and if such payee or other person entitled to the indemnity makes no claim for payment within two years after the issuance of the check, such claim shall not thereafter be payable, except with the consent of the Corporation.

21. *Payment to transferee.* (a) If the insured transfers all or a part of his insured interest in a wheat crop before the beginning of harvest or the time of loss, whichever occurs first, he shall immediately notify the Corporation thereof in writing at the county office. The transferee under such a transfer will be entitled to the benefits of the contract with respect to the interest so transferred, provided the transferee immediately following the transfer makes suitable arrangements with the Corporation for the payment of any premium with respect to the interest so transferred, whereupon the transferee and the transferor shall be jointly and severally liable for the amount of such premium. Any transfer shall be subject to any collateral assignment made by the original insured in accordance with section 25. However, the Corporation shall not be liable for a greater amount of indemnity in connection with the insured crop than would have been paid if the transfer had not taken place.

(b) An involuntary transfer of an insured interest in a wheat crop solely because of the existence of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or other process shall not entitle any holder of any such interest to any benefits under the contract.

(c) Any deduction to be made from an indemnity payable to the transferee shall not exceed the annual premium, plus any interest due, on the land involved in the transfer for the crop year in which the transfer is made, plus the unpaid amount of any other obligation of the transferee to the Corporation.

(d) If, as a result of any transfer, diverse interests appear with respect to any insurance unit, any indemnity payable with respect to such unit may be paid jointly to all persons having the insured interest in the crop at the time harvest is commenced or the time of loss, whichever occurs first, or to one of such persons on behalf of all such persons, and payment in any such manner shall constitute a complete discharge of the Corporation's liability with respect to such unit under the contract.

(e) If a transfer is effected in accordance with paragraph (a) above, the contract of the transferor shall cover the interest so transferred only to the end of the insurance period for the crop year during which the transfer is made.

22. *Determination of person to whom indemnity shall be paid.* In any case where the insured has transferred his interest in all or a part of the wheat crop on any insurance unit, or has ceased to act as a fiduciary, or has died, has been judicially declared incompetent or has disappeared, payment in accordance with the provisions of the contract will be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or non-existence of a circumstance in the event of which payment may be made and of the person(s) to whom such payment will be made shall be final and conclusive. Payment of an indemnity under this section shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and settled and shall be a bar to recovery by any other person.

23. *Other insurance.* (a) If the insured has or acquires any other insurance against substantially all the risks that are insured against by the Corporation under the contract, regardless of whether such other insurance is valid or collectible, the liability of the Corporation shall not be greater than its share would be if the amount of its obligations were divided equally between the Corporation and such other insurer.

(b) In any case where an indemnity is paid to the insured by another Government agency because of damage to the wheat crop, the Corporation reserves the right to determine its liability under the contract taking into consideration the amount paid by such other agency.

24. *Subrogation.* The Corporation may require from the insured an assignment of all rights of recovery against any person(s) for loss or damage to the extent that payment therefor is made by the Corporation, and the insured shall execute all papers required and shall do everything that may be necessary to secure such rights.

25. *Collateral assignment.* The original insured may assign his right to an indemnity under the contract by executing a form entitled "Collateral Assignment", and upon approval thereof by the Corporation the interest of the assignee will be recognized including the right of the assignee to submit a "Statement in Proof of Loss" if the insured refuses to submit or disappears without having submitted such statement.

26. *Records and access to farm.* For the purpose of enabling the Corporation to determine any loss that may have occurred under the contract, the insured shall keep or cause to be kept, for one year after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition, of all wheat produced on each insurance unit covered by the contract, and on any uninsured acreage in the county in which he has an interest. Such records shall be made available for examination by the Corporation, and as often as may be reasonably required, any person(s) designated by the Corporation shall have access to the farm(s).

27. *Voidance of contract.* The contract may be voided and the premium forfeited to the Corporation without the Corporation's waiving any right or remedy, including its right to collect the amount of the note executed by the insured, whether before or after maturity, if (a) at any time the insured has concealed any material fact or made any false or fraudulent statements relating to the contract, the subject thereof, or his interest in the wheat crop covered thereby, or (b) the insured shall neglect to use all reasonable means to produce, care for or save the wheat crop covered thereby, whether before or after damage has occurred, or (c) the insured fails to give any notice, or otherwise fails to comply with the terms of the contract, including the note, at the time and in the manner prescribed.

28. *Modification of contract.* No notice to any representative of the Corporation or the knowledge possessed by any such representative or by any other person shall be held to effect a waiver of or change in any part of the contract, or to estop the Corporation from asserting any right or power under such contract, nor shall the terms of such contract be waived or changed except as authorized in writing by a duly authorized officer or representative of the Corporation; nor shall any provision or condition of the contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers thereunder or by any requirement, act, or proceeding on the part of the Corporation or of its representatives relating to appraisal or to any examination herein provided for.

29. *General.* (a) In addition to the terms and provisions in the application and policy, the Wheat Crop Insurance Regulations for Continuous Contracts in effect for the crop year involved shall govern with respect to (1) death, incompetence, or disappearance of the insured, (2) fiduciaries, (3) prohibition against assignment or transfer of claims for refunds, (4) rounding of fractional units, (5) creditors, (6) minimum participation requirements, and (7) reduction of premium based on good experience.

(b) Copies of the regulations and forms referred to in this policy are available at the county office.

30. *Meaning of terms.* For the purpose of the wheat crop insurance program, the terms:

(a) "Contract" means the accepted application for insurance and this policy.

(b) "County Actuarial Table" means the form and related material (including the crop insurance maps) approved by the Corporation for listing the coverages per acre and the premium rates per acre applicable in the county.

(c) "County office" means the office of the County Agricultural Conservation Association in the county or other office specified by the Corporation.

(d) "Crop year" means the period within which the wheat crop is seeded and normally harvested, and shall be designated by reference to the calendar year in which the crop is normally harvested.

(e) "Harvest" means any mechanical severance from the land of matured wheat for threshing where the wheat crop has not been destroyed or substantially destroyed.

(f) "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

(g) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(h) "Substitute crop" means any crop, except lespedeza, biennial and perennial legumes and perennial grasses, planted on released acreage before harvest of wheat becomes general in the county as determined by the Corporation. Biennial and perennial legumes and perennial grasses seeded with the wheat or in the growing wheat crop shall not be considered a substitute crop. If other small grains are seeded in a growing wheat crop on released acreage,the crop of mixed wheat and other grains shall be considered a substitute crop.

(i) "Tenant" means a person who rents land from another person for a share of the wheat crop or proceeds therefrom produced on such land.

31. *Irrigated acreage.* (a) In addition to the provisions of section 4, where insurance is written on an irrigated basis the following provisions shall apply:

(1) The acreage of wheat which shall be insured on an irrigated basis in any year shall not exceed that acreage which can be irrigated properly with facilities available and with a supply of irrigation water which could reasonably be expected, taking into consideration the amount of water required to properly irrigate the acreage of all irrigated crops on the farm, except that in areas where a part of the wheat is normally irrigated and a part is not normally irrigated, the acreage of wheat which shall be insured on an irrigated basis in any year shall not exceed that acreage which could be irrigated in a normal year with the facilities available. Also, in all Texas counties, the acreage of wheat on any farm which shall be insured on an irrigated basis in any year shall not exceed that acreage on which the following irrigation requirements are met: (i) One early season irrigation of at least 3 acre-inches either before seeding of wheat or immediately after seeding the wheat if there is a deficiency of soil moisture at that time, and (ii) one irrigation of not less than

3 acre-inches during the early spring growing season if there is a deficiency of soil moisture at that time.

(2) Insurance shall not attach with respect to acreage seeded to wheat the first year after being leveled.

(b) In addition to the causes of loss insured against shown on the first page of this policy the contract shall cover loss due to failure of the water supply from natural causes that could not be foreseen and prevented by the insured, including (1) lowering of the water level in pump wells adequate at the beginning of the growing season to the extent that either deepening the well or drilling a new well would be necessary to obtain an adequate supply of water, (2) failure of public power used for pumping or failure of an irrigation district or water company to deliver water where such failure is not within the control of the insured, and (3) the collapse of casing in wells.

(c) In addition to the causes of loss not insured against shown in section 11, the contract shall not cover loss caused by (1) failure to provide adequate casing or properly to adjust the pumping equipment in the event of a lowering of the water level in pump wells when such adjustment can be made without deepening the well, (2) failure properly to apply irrigation water to wheat in proportion to the need of the crop and the amount of water available for all irrigated crops and (3) shortage of irrigation water on any farm where the Corporation determines that the total acreage of all irrigated crops on the farm is in excess of that which could be irrigated properly with the facilities available and with the supply of irrigation water which could be reasonably expected.

32. *Date table.* For each year of the contract the cancelation date, discount date and maturity date are as follows:

State and county	Cancellation date [1]	Discount date	Maturity date
California	June 30	Mar 31	June 30
Colorado:			
For spring wheat	Apr 30	June 15	Do.
For winter wheat	do	Feb. 28	Do.
Idaho	June 30	June 15	July 31
Illinois	do	Feb. 28	June 30
Indiana	do	do	Do.
Kansas	Apr. 30	do	June 15
Maryland	June 30	do	June 30
Michigan	do	do	Do.
Minnesota	Dec. 31	June 15	July 31
Missouri	June 30	Feb. 28	June 30
Montana:			
Chouteau	Apr. 30	June 15	July 31
Fergus	do	do	Do.
Hill	do	do	Do.
Judith Basin	do	do	Do.
Liberty	do	do	Do.
Pondera	do	do	Do.
All others	Dec. 31	do	Do.
Nebraska	Apr. 30	Feb. 28	June 30
New Mexico	do	do	Do.
New York	June 30	do	Do.
North Dakota	Dec. 31	June 15	July 31
Ohio	June 30	Feb. 28	June 30
Oklahoma	Apr. 30	do	June 15
Oregon	June 30	June 15	July 31
Pennsylvania	do	Feb. 28	June 30
South Dakota:			
Meade	Apr. 30	June 15	July 31
Tripp	do	do	Do.
All others	Dec. 31	do	Do.
Texas	Apr. 30	Feb. 28	June 15
Utah:			
For spring wheat	June 30	June 15	July 31
For winter wheat	do	Feb. 28	Do.
Washington	do	June 15	Do.
Wyoming:			
For spring wheat	Apr. 30	do	June 30
For winter wheat	do	Feb. 28	Do.

[1] The cancellation date for any year is the applicable date preceding the calendar year in which the wheat is to be harvested.

NOTE: The record keeping requirements of these regulations have been approved by, and subsequent reporting requirements will be subject to the approval of, the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Adopted by the Board of Directors on March 22, 1949.

[SEAL] E. D. BERKAW,
Secretary,
Federal Crop Insurance Corporation.

Approved: March 29, 1949.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2441; Filed, Mar. 31, 1949; 8:48 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 927—MILK IN NEW YORK METROPOLITAN MARKETING AREA

ORDER, AMENDING ORDER, AS AMENDED, REGULATING HANDLING

Sec.

AUTHORITY: §§ 927.0 to 927.13 issued under 48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; sec. 102 Reorg. Plan 1 of 1947, 12 F. R. 4534.

§ 927.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq., 13 F. R. 8585), a public hearing was held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions of said order, as amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* It is necessary to make the present amendments to the said order, as amended, effective not later than April 1, 1949 to reflect current marketing conditions. Any further delay in the effective date of this order, as amended, and as hereby further amended, will seriously disrupt the orderly marketing of milk produced for the New York metropolitan milk marketing area. The changes effected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended and as hereby further amended, which is marketed within the New York metropolitan milk marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area which was heretofore approved by the Secretary of Agriculture; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-

thirds of the producers who participated in a referendum on the question of approval of the order, and who, during December 1948 (said month having been determined to be a representative period), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the New York metropolitan milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

§ 927.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "New York metropolitan milk marketing area" means the city of New York, the counties of Nassau, Suffolk (except Fisher's Island), and Westchester, all in the State of New York, and is hereinafter called the "marketing area."

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Dairy farmer" means any person who produces milk.

(f) "Producer" means any dairy farmer whose milk is delivered direct from farm to a pool plant.

(g) "Handler" means (1) any person who engages in the handling of milk, or products therefrom, which milk was received at a pool plant, or at a plant approved by any health authority as a source of milk for the marketing area, (2) any person who engages in the handling of milk, cultured or flavored milk drinks, cream, or skim milk, all or a portion of which is shipped to, or received in, the marketing area, or (3) any cooperative association of dairy farmers with respect to any milk which it causes to be delivered from dairy farmers to a pool plant of any other handler for the account of such association and for which such association receives payment.

(h) "Plant" means the land, buildings, surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or processing of milk or milk products as determined by the market administrator pursuant to § 927.2 (d) (10).

(j) "Pool plant" means any plant which is designated as a pool plant pursuant to § 927.3.

(k) "Market administrator" means the agency, which is described in § 927.2, for the administration of this order.

(l) "Northern New Jersey" means the following counties in the State of New Jersey: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren.

§ 927.2 *Market administrator* — (a) *Selection, removal, and bond.* The agency for the administration of this order shall be a market administrator who shall be a person selected and subject to removal by the Secretary. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) *Compensation.* The market administrator shall be entitled to such reasonable compensation as shall be determined by the Secretary.

(c) *Powers.* The market administrator shall have the following powers:

(1) To administer the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments to this order.

(d) *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(1) Keep such books and records as will clearly reflect the transactions provided for herein;

(2) Submit his books and records to examination by the Secretary at any and all times;

(3) Furnish such information and such verified reports as the Secretary may request;

(4) Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the market administrator;

(5) Publicly disclose, after reasonable notice, the name of any person who has not made reports pursuant to § 927.6, or made payments required by §§ 927.8, 927.9, or 927.10;

(6) Prepare and disseminate for the benefit of producers, consumers, and handlers such statistics and information concerning the operation of this order, as amended, as do not reveal confidential information;

(7) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(8) Pay out of the funds received pursuant to § 927.10 the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, his own compensation, and all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties;

(9) Maintain a main office and such branch offices as may be necessary; and

(10) The market administrator shall, from time to time, cause inspections to be made of the buildings, facilities and surroundings of the plant and shall notify handlers of his determination as to what constitutes the plant and its equipment. If any handler makes written request for such determination, the market administrator shall promptly notify such handler of his determination: *Provided*, That if the request is for a revised determination or for affirmation of a previous determination, the handler shall set forth in his request the changed conditions which he believes make a new determination necessary. Such determination shall be ruling for all purposes hereunder, and any revision in the determination of which handlers have been notified shall be effective not earlier than the date of notice to handlers of such revised determination.

§ 927.3 *Pool plants.* A plant shall be designated as a pool plant pursuant to either paragraph (a) or (b) of this section.

(a) *Reserve plants*—(1) *Carryover designation.* Any plant for which the report of milk received from dairy farmers was used in the computation of the uniform price for November 1944 is hereby designated as a pool plant from the effective date hereof until such designation is cancelled pursuant to subparagraph (4) of this paragraph.

(2) *Designation upon application*—(i) *Eligible applicants.* Any person who operates a plant which is located in New York State, Vermont, Massachusetts, Connecticut, New Jersey, or Pennsylvania and which is either approved as a source of milk by a health authority in the marketing area at the time of application and under the sanitary supervision of such authority, or was a pool plant during the preceding October, November, and December, may apply to the Secretary prior to July 1 of any year to have such plant designated as a pool plant: *Provided*, That if 50 percent or more of the dairy farmers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant but for which milk such association receives payment, an application must be made by such cooperative association as well as by the person operating the plant. Applications shall be addressed to the Secretary and filed at the office of the market administrator.

(ii) *Designation.* (*a*) Any plant for which an application has been made pursuant to subdivision (i) of this subparagraph shall be designated as a pool plant upon determination by the Secretary that the requirements of subparagraph (3) of this paragraph are being met. Such designation shall be effective as of August 1 following the date of application and until cancelled pursuant to subparagraph (4) of this paragraph.

(*b*) If, based upon the information contained in an application filed pursuant to subdivision (i) of this subparagraph, the Secretary determines that the requirements of subparagraph (3) of this paragraph are not being met, the applicant or applicants shall be so notified. Within 15 days after receipt of such notice, the applicant or applicants may submit additional information and request further consideration.

(*c*) Prior to the issuance of the determination of the Secretary, an application may be withdrawn by written request of the applicant or applicants. In the event

that no determination is made by the Secretary prior to August 1, the effective date of the designation, upon written request of the applicant or applicants prior to the issuance of a determination, shall be deferred until the first of the month following the date of such determination. If the application is not so withdrawn, or the effective date of designation is not so deferred, the plant shall be treated as a pool plant as of August 1: *Provided,* That all payments into or out of the producer settlement fund (except such payments which are made on the basis of operations during a month in which the plant meets the requirements of paragraph (b) of this section) shall be held in reserve by the market administrator until a determination is made.

(3) *Requirements.* In order to qualify as a pool plant pursuant to this paragraph, the person operating the plant shall meet each of the following requirements:

(i) Be willing to ship in the form of milk to the marketing area, milk received at the plant from dairy farmers;

(ii) Keep such control over the sanitary conditions under which milk received at the plant is produced and handled, that the plant can meet the requirements of a source of milk for the marketing area: *Provided,* That approval by a health authority of the plant as a source of milk for the marketing area shall constitute sufficient evidence that this requirement is being met even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of approved skim milk from such plant; and

(iii) Have no commitments for disposition of milk that prevent him from utilizing milk as set forth in subparagraph (4) (iv) of this paragraph.

(4) *Suspension and cancellation of designation.* The designation of a pool plant pursuant to this paragraph may be suspended or cancelled under any of the following provisions:

(i) The designation shall be cancelled upon application to the market administrator by the handler operating the plant effective at any time during the months of April through July of any year but not sooner than 30 days after receipt of such application: *Provided,* That such applications for cancellation shall be accompanied by proof that the handler, if not a cooperative association qualified pursuant to § 927.9 (f), has notified any qualified cooperative association which has any members who deliver milk to such plant, and has notified individually all producers delivering to such plant who are not members of such qualified cooperative association, of his intention to make such application: *Provided, further,* That if 50 percent or more of the producers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant, but for which milk such association receives payment, an application must be made by such cooperative association as well as by the handler operating the plant.

(ii) The designation of any plant which on June 15 of any year is not approved by a health authority as a source of milk for the marketing area shall be automatically cancelled effective on August 1 of such year unless the absence of such approval is a temporary condition covering a period of not more than 15 days: *Provided,* That the designation of a plant approved by a health authority as a source of milk for the marketing area, even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of approved skim milk from such plant, shall not be cancelled pursuant to this provision. This provision does not prevent a handler from applying, pursuant to subparagraph (2) of this paragraph, for a new designation effective on August 1 of the same year.

(iii) The designation of any plant shall be suspended, effective no sooner than 10 days nor later than 20 days after the date of mailing of notice, by registered letter, to the handler, whenever the market administrator, subject to the limitations set forth in subdivision (iv) of this subparagraph, finds on the basis of available information that the handler operating the plant is not meeting the requirements set forth in subparagraph (3) of this paragraph: *Provided,* That, if the handler operating the plant is not a cooperative association qualified pursuant to § 927.9 (f), the market administrator shall also notify any qualified cooperative association which has any members who deliver milk to such plant, and shall notify individually all producers delivering to such plant who are not members of such qualified cooperative association, of such suspension of designation.

(*a*) In the case of the suspension, pursuant to this subparagraph, of the designation of one or more plants for failure to meet the requirements of subparagraph (3) (i) or (3) (iii) of this paragraph, the handler operating such plant may select, prior to the effective date of such suspension, some other pool plant or plants to be substituted for the plant or plants suspended if, during the preceding month, the quantity of milk received from producers at such substituted plant or plants was not less than the quantity of milk received from producers at the suspended plant or plants. The handler may also select the order in which plant designations are to be cancelled in the event of a later determination by the Secretary cancelling the designation of some but not all of the plants suspended.

(*b*) Not later than 10 days after the effective date of suspension of designation, pursuant to this subparagraph, the handler operating the plant may apply to the Secretary for a review. If the handler fails to so apply for such review, the designation of the plant as a pool plant shall be cancelled as of the effective date of the suspension. If the handler does so apply, the Secretary shall, after review, either determine that the requirements set forth in subparagraph (3) of this paragraph have been met and order the suspension revoked, or determine that such requirements have not been met and order the designation cancelled as of the effective date of the suspension: *Provided,* That, if the Secretary has made no determination within two months after the end of the month in which the suspension was made effective, but later orders the designation cancelled, such cancellation shall be effective as of the first of the month following the date of such determination.

(*c*) Beginning with the effective date of a suspension pursuant to this subparagraph, and until the Secretary has either ordered the designation cancelled or ordered the suspension revoked, the plant shall be treated as a pool plant: *Provided,* That all payments into or out of the producer settlement fund (except such payments on the basis of operations during a month in which the plant meets the requirements of paragraph (b) of this section), shall be held in reserve by the market administrator until an order is issued by the Secretary, but not longer than two months after the end of the month in which the suspension was made effective.

(iv) No pool plant designation shall be suspended for failure to meet the requirements of subparagraph (3) (i) of this paragraph except under the following conditions:

(*a*) A meeting has been held, no sooner than three days after notice by the market administrator to all handlers operating reserve pool plants, for consideration of the desirable utilization of milk received from producers during a period ending not later than the end of the second month after the month during which such meeting is held.

(*b*) There has been issued by the market administrator, following such meeting, and mailed to all handlers operating reserve pool plants the market administrator's determination of the desirable utilization of milk received from producers each month during all or a part of the period set forth in (*a*) of this subdivision. Such determination shall include a schedule setting forth, by months, the desired minimum percentage of milk received from producers to be utilized in specified classes. Such specified classes shall include Class I–A, and Class I–C to the extent of 50 percent of the milk received by a handler from producers which is ultimately distributed in the State of New York, in Northern New Jersey, in Fairfield County, Connecticut, or in Pennsylvania outside the counties of Allegheny, Beaver, Fayette, Greene, Washington, and Westmoreland. In addition, such specified classes may include all or a part of Class II and other I–C.

(*c*) The market administrator finds on the basis of available information that the handler operating a plant or the cooperative reporting a plant is not utilizing milk received from producers in accordance with the minimum percentage set forth in the determination of the market administrator previously announced pursuant to (*b*) of this subdivi-

sion: *Provided,* That the suspension of the pool plant designation of a plant may be made effective during the months of November and December if the market administrator finds that the handler is utilizing any milk received from producers in classes other than those set forth in the determination of the market administrator announced pursuant to (*b*) of this subdivision.

(v) The cancellation of pool plant designations for failure to meet the requirements of subparagraph (3) (i) of this paragraph shall be subject to the following conditions:

(*a*) No pool plant designation shall be cancelled if the handler operating the plant utilized the milk received by him at all pool plants from producers during the month in which the suspension is made effective in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to subdivision (iv) (*b*) of this subparagraph.

(*b*) No pool plant designation shall be cancelled if the handler operating the plant utilized in the specified classes set forth in the determination of the market administrator announced pursuant to subdivision (iv) (*b*) of this subparagraph a percentage of the total milk received by him at all pool plants from producers during the month in which the suspension is made effective which is not less than the percentage of the total milk reported by all handlers to have been received from producers during such month which was reported to have been used in the specified classes: *Provided,* That the limitations as to quantity and area set forth in the determination of the market administrator announced pursuant to subdivision (iv) (*b*) of this subparagraph shall apply in computing the utilization percentage of the individual handler but shall not apply in computing the utilization percentage of all handlers.

(*c*) In the event that all milk received from producers at a plant is reported to the market administrator by a cooperative association qualified pursuant to § 927.9 (f), and such association pays the producers for such milk, the pool plant designation of such plant shall not be cancelled if a percentage of all milk reported by such cooperative association is utilized in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to subdivision (iv) (*b*) of this subparagraph, or in accordance with the percentage set forth in (*b*) of this subdivision.

(*d*) Cancellation of designations shall be limited to those plants necessary to result in a utilization of milk received at the remaining pool plants operated by the handler, or reported by the cooperative, as the case may be, in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to subdivision (iv) (*b*) of this subparagraph.

(vi) Loss of approval by health authorities of a plant as a source of milk for the marketing area may in itself constitute adequate reason for the market administrator to suspend the designation of a plant for failure to meet the requirements of subparagraph (3) (ii) of this paragraph, only if the absence of such approval continues for more than 15 days.

(5) *Plant replacements.* In addition to designations pursuant to subparagraph (2) of this paragraph, a plant may be designated at any time as a pool plant upon application made by the person operating the plant to the Secretary showing that the plant is a replacement for one or more pool plants operated by him and that substantially all of the dairy farmers delivering milk at the plant previously delivered milk to the pool plant or plants replaced. Upon designation of a plant pursuant to this subparagraph the designation of the plant or plants which it replaced shall be automatically cancelled.

(6) *Change of operator.* The designation of pool plants pursuant to this paragraph shall be considered as applicable to the plant as such, and subject to cancellation only pursuant to subparagraphs (4) and (5) of this paragraph, regardless of change in the person owning or operating the plant. The market administrator shall be notified, by the handlers involved, of any transfer from one person to another of ownership or operation of a pool plant.

(b) *Plants shipping Class I–A milk to the marketing area.* For any month a plant from which during such month Class I–A milk, either directly or through other plants, is sold or distributed in or shipped to the marketing area, which quantity of milk during the months of July through March, is equal to more than 25 percent of the milk received directly from dairy farmers, or during the months of April through June is equal to more than 10 percent of the milk received directly from dairy farmers, shall automatically be designated a pool plant: *Provided,* That for the months of April, May, or June no plant at which milk was received from dairy farmers during the preceding period of October, November, and December shall be a pool plant on this basis, unless at least 60 percent of such milk was classified in Class I–A, and either directly, or through other plants, was sold or distributed in or shipped to the marketing area in the form of milk: *Provided, further,* That no plant shall be a pool plant on this basis during the months of January through July, if the designation of the plant as a pool plant was cancelled for failure to meet the requirements of paragraph (a) (3) (i) of this section during the preceding year. At the time of announcing the uniform price for each month, the market administrator shall make public the location, and name of the operator, of any plant for which a report of receipts from dairy farmers was used, pursuant to this paragraph, in the computation of that uniform price.

§ 927.4 *Classification*—(a) *Basis of classification.* All milk the butterfat from which is received at a plant at which the classification of milk received from producers is to be determined pursuant to subparagraph (3) of this paragraph, and all milk entering the marketing area in the form of milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products or skim milk, shall be classified in accordance with the form in which it is held at, or moved from, the plant at which classification is determined. Such classification shall be subject to the following conditions:

(1) *Burden of proof.* In establishing the classification of milk received from producers, the burden rests upon the handler who received the milk from producers to show that the milk should not be classified as Class I–A, and that the skim milk in Class II and Class III milk should not be subject to the fluid skim differential. The burden rests upon the handler who receives or distributes in the marketing area milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or skim milk to establish the source of all his milk or milk products.

(2) *Period for establishing classification.* A period ending with the last day of the month following the month during which the milk was received from dairy farmers shall be allowed for handling such milk as a basis for establishing the classification as other than Class I–A: *Provided,* That the holding of milk in the form of cream in a licensed cold storage warehouse for at least 7 days shall constitute that portion of the handling of such cream required pursuant to paragraph (c) (5) (ii) of this section that is required to be performed during the month following its receipt from dairy farmers.

(3) *Plant at which classification is to be determined.* Classification shall be determined at the plant at which milk is received from dairy farmers: *Provided,* That if such milk is shipped in the form of milk or cream to another plant or other plants, it shall be classified, subject to the provisions of subdivisions (i) through (vi) of this subparagraph, at the plant or plants to which it is shipped, and there shall be no limit on the number of interplant movements in the form of milk or cream except as set forth in subdivisions (i) through (vi) of this subparagraph.

(i) The classification of milk shipped in the form of milk to a plant in the marketing area shall be determined at the plant from which such milk is shipped to the plant in the marketing area.

(ii) Except as set forth in subdivision (iii) of this subparagraph, the classification of milk the butterfat from which is shipped in the form of cream to a plant in the marketing area shall be determined at the plant from which such cream is shipped to the plant in the marketing area.

(iii) The classification of milk the butterfat from which is shipped in the form of cream to a plant in the marketing area shall be determined, if such cream is moved in the form of frozen desserts or homogenized mixtures or cream cheese either from the plant at which cream is first received in the marketing area or from the first plant to which cream is shipped from the plant where first received in the marketing area, at the first

plant from which the frozen desserts or homogenized mixtures or cream cheese are so moved.

(iv) Except as set forth in subdivisions (v) and (vi) of this subparagraph, the classification of milk shipped in the form of milk and of milk the butterfat from which is shipped in the form of cream to a non-pool plant shall be determined at the non-pool plant, unless the handler operating the pool plant from which such shipments are made to the non-pool plant elects in writing on his monthly reports to have classification of all milk or cream received during the month at such handler's pool plant and shipped as milk or cream to the non-pool plant determined at the pool plant from which the milk or cream is shipped to the non-pool plant.

(v) The classification of milk shipped in the form of milk more than 65 miles from the plant where received from dairy farmers, to a plant outside New York State, Vermont, New Jersey, or Pennsylvania, or to a plant in the county of Alleghany, Beaver, Fayette, Greene, Washington or Westmoreland in Pennsylvania shall be determined at the plant from which the milk is so shipped.

(vi) The classification of milk the butterfat from which is shipped in the form of cream to a plant more than 65 miles from the plant where the milk was separated to a plant outside New York State, Vermont, New Jersey, or Pennsylvania, or to a plant in the county of Allegheny, Beaver, Fayette, Greene, Washington or Westmoreland in Pennsylvania shall be determined at the plant from which the cream is so shipped. This provision shall not apply to milk received from dairy farmers during April, May or June if such shipment is to a plant in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Pennsylvania, Maryland, Delaware, or Ohio.

(4) *Plant loss.* Allowances for plant loss not to exceed 5 percent of the butterfat in the product resulting from any specific plant operation, which plant loss may be classified the same as the milk equivalent of the butterfat in the product, shall be determined by the market administrator pursuant to paragraph (b) of this section.

(5) *Accounting procedure.* The accounting procedure for classifying milk pursuant to this section shall be set up by the market administrator pursuant to paragraph (b) of this section. Such accounting procedure shall include conversion factors to be used in the absence of specific weights and tests, specific definitions of products, and such methods for assignment of milk to classes according to source and form as may be necessary to effectuate the provisions of this section and which are not inconsistent with the following general principles:

(i) Milk, fluid milk products, cream, fluid cream products and skim milk received from pool plants or from producers shall be assigned, as far as possible, to Class I–A, Class II, or to skim milk subject to the fluid skim differential.

(ii) If milk, cream, or skim milk is received at a plant from producers or from pool plants and in like form from dairy farmers not producers or from non-pool plants, the total milk equivalent of such products from producers and pool plants, and the total milk or milk equivalent from dairy farmers not producers and non-pool plants shall be assigned pro rata to the total classification of all such milk or milk equivalent and to all skim milk subject to the fluid skim differential after the assignment in accordance with subdivision (i) of this subparagraph.

(iii) The milk received from producers which is eliminated from the computation of the handler's net pool obligation pursuant to § 927.7 shall be assigned pro rata to the total classification of all milk from producers and pool plants.

(b) *Rules and regulations.* The rules and regulations to effectuate the terms and provisions of this section shall be made, and may from time to time be amended by the market administrator in accordance with the procedure set forth in this paragraph: *Provided,* That at any time upon a determination by the Secretary that an emergency exists which requires the immediate adoption of rules and regulations, the market administrator may issue, with the approval of the Secretary, temporary rules and regulations without regard to the following procedure: *Provided further,* That if any interested person makes written request for the issuance, amendment, or repeal of any rule, the market administrator shall within 30 days either issue notice of meeting pursuant to subparagraph (1) of this paragraph or deny such request, and except in affirming a prior denial, or where the denial is self-explanatory, shall state the grounds for such denial.

(1) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator, at which time all interested persons shall have opportunity to be heard. Notice of such meeting shall be given by the market administrator, and a copy of the proposed rules and regulations shall be sent at least five days prior to the date of the meeting to all handlers operating pool plants. A stenographic record shall be made at all such meetings and such record shall be public information available for inspection at the office of the market administrator.

(2) A period of at least five days after the meeting held pursuant to subparagraph (1) of this paragraph shall be allowed for the filing of briefs. Such briefs shall be public information available for inspection at the office of the market administrator.

(3) Not later than 30 days after a meeting held pursuant to subparagraph (1) of this paragraph the market administrator shall issue and send to all handlers operating pool plants the tentative rules and regulations or amendments thereto relating to the issues considered at such meeting, or a tentative notice that no rules or regulations or amendments thereto are to be issued prior to further consideration at another meeting. The tentative rules and regulations, or tentative notice, together with copies of the stenographic record and briefs, shall also at the same time be forwarded by the market administrator to the Secretary.

(4) Not later than 30 days after issuance by the market administrator, the Secretary shall either approve the tentative rules and regulations or tentative notice as issued, or direct the market administrator to reconsider. In which latter event, the market administrator shall within 30 days either issue revised tentative rules and regulations or tentative notice, or call another meeting pursuant to subparagraph (1) of this paragraph.

(5) The tentative rules and regulations and amendments thereto or tentative notice issued pursuant to subparagraph (3) of this paragraph shall be effective as of the first of the month following approval by the Secretary, but not sooner than ten days after issuance by the market administrator.

(c) *Classes of utilization.* Subject to all of the conditions set forth in paragraphs (a) and (b) of this section, milk shall be classified at the plant at which classification is to be determined as follows:

(1) Class I–A milk shall be all milk, except as provided in subparagraphs (2) and (3) of this paragraph, the butterfat from which leaves or is on hand at the plant in the form of milk, fluid milk products, or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and all milk the classification of which is not established in some other class named in this paragraph.

(2) Class I–B milk shall be all milk the butterfat from which leaves the plant in the form of milk, fluid milk products, or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and which is delivered to a plant or a purchaser in an area regulated by another order of the Secretary and remains outside the marketing area.

(3) Class I–C milk shall be all milk the butterfat from which leaves the plant in the form of milk, fluid milk products, or as cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, and which is delivered to a plant or a purchaser in an area not regulated by another order of the Secretary and remains outside the marketing area.

(4) Class II milk shall be all milk the butterfat from which leaves or is on hand at the plant in the form of cream, sweet or sour, fluid cream products, or in the form of cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, unless such cream, fluid cream products, or cultured or flavored milk drinks are established to have been so handled or marketed as to classify such milk in some other class named in this paragraph.

(5) Class III milk shall be all milk which meets the conditions set forth in any one of the following subdivisions:

(i) All milk the butterfat from which leaves or is on hand at the plant in the

form of cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat or in the form of cream, or fluid cream products which cream, fluid cream products, or cultured or flavored milk drinks are delivered to a plant or a purchaser outside the marketing area and remain outside the marketing area.

(ii) All milk the butterfat from which leaves or is on hand at the plant in the form of cream which is subsequently held in a licensed cold storage warehouse for at least 28 days, and which is subject at all times until utilization of such cream to being inspected by a representative of the market administrator to determine the physical presence of the cream. After the first 7 days, such cream may be moved from one licensed cold storage warehouse to another: *Provided*, That the market administrator receives notice of such removal within 7 days thereafter. Any handler whose report claimed the original classification of milk pursuant to this subdivision shall be liable under the provisions of § 927.9 (e) for the difference between the Class II and Class III prices for the month in which the Class III classification was claimed on any such milk if the storage of cream does not comply with all the requirements of this subdivision.

(iii) All milk the butterfat from which leaves or is on hand at the plant in the form of some product the classification of which is not established in some other class named in this paragraph.

§ 927.5 *Minimum prices.* For milk received during each month from producers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section. Any handler who purchases or receives, during any month, milk from a cooperative association of producers which is also a handler shall, on or before the 15th day of the following month, pay such cooperative association in full for such milk at not less than the minimum class prices applicable pursuant to this section.

(a) *Class prices.* (1) Except as provided in subdivisions (i) and (ii) of this subparagraph, for Class I–A milk the price per hundredweight during each month shall be as set forth in the following table:

[U. S. Grade A or U. S. 92-score butter, wholesale, at New York, average price per pound announced pursuant to § 927.5 (g) (1) (i) for the period ending on the 24th of the preceding month, plus an amount calculated as follows: deduct four cents from the average dry skim milk or nonfat dry milk solids quotation per pound, announced pursuant to § 927.5 (g) (1) (iv) for the period ending on the 24th of the preceding month, and multiply by 1.8]

	Class I–A price	
	April through June	July thorugh March
Cents	*Dollars per cwt.*	*Dollars per cwt.*
Under 30	1.72	2.16
30 or over, but under 35	1.94	2.38
35 or over, but under 40	2.16	2.60
40 or over, but under 45	2.38	2.82
45 or over, but under 50	2.60	3.04
50 or over, but under 55	2.82	3.26
55 or over, but under 60	3.04	3.48
60 or over, but under 65	3.26	3.70
65 or over, but under 70	3.48	3.92
70 or over, but under 75	3.70	4.14
75 or over, but under 80	3.92	4.36
80 or over, but under 85	4.14	4.58
85 or over, but under 90	4.36	4.80
90 or over, but under 95	4.58	5.02
95 or over, but under 100	4.80	5.24

Should the butter-dry skim milk price combination set forth above be 100 cents or more, the Class I–A price shall be the price which would result from further extension of this table at the same rate to cover such butter-dry skim milk price combination.

(i) The Class I–A price for any of the months of March through June of each year shall not be higher than the Class I–A price for the immediately preceding month, and the Class I–A price for any of the months of September through December of each year shall not be lower than the Class I–A price for the immediately preceding month.

(ii) The Class I–A price per hundredweight for each of the months of January through June 1949 shall be the 201–210 mile zone price per hundredweight established under Order No. 4 for Class I milk containing 3.7 percent butterfat for the Greater Boston marketing area, minus 19 cents.

(2) For Class I–B milk the price during each month shall be the price for Class I–A milk.

(3) For Class I–C milk the price shall be the uniform price computed by the market administrator pursuant to § 927.7 (b) plus 20 cents per hundredweight.

(4) For Class II milk the price during each month shall be the sum of the amounts computed pursuant to subdivisions (i) and (ii) of this subparagraph.

(i)

[U. S. Grade A or U. S. 92-score butter, wholesale, at New York, average price announced pursuant to § 927.5 (g) (1) (i) for the period ending on the 24th of the preceding month]

	Class II price	
	March through July	August through February
Cents per pound	*Dollars per cwt.*	*Dollars per cwt.*
Under 21.5	1.35	1.50
21.5 or over, but under 25.0	1.50	1.65
25.0 or over, but under 28.5	1.65	1.80
28.5 or over, but under 32.0	1.80	1.95
32.0 or over, but under 35.5	1.95	2.10
35.5 or over, but under 39.0	2.10	2.25
39.0 or over, but under 42.5	2.25	2.40
42.5 or over, but under 46.0	2.40	2.55
46.0 or over, but under 49.5	2.55	2.70
49.5 or over, but under 53.0	2.70	2.85
53.0 or over, but under 56.5	2.85	3.00
56.5 or over, but under 60.0	3.00	3.15
60.0 or over, but under 63.5	3.15	3.30
63.5 or over, but under 67.0	3.30	3.45
67.0 or over, but under 70.5	3.45	3.60
70.5 or over, but under 74.0	3.60	3.75
74.0 or over, but under 77.5	3.75	3.90
77.5 or over, but under 81.0	3.90	4.05

Should the average butter price set forth above be 81.0 cents or more the Class II price shall be the price which would result from further extension of this table at the same rate to cover such average butter price.

(ii) Multiply by 7.5 the average of all the hot roller process dry skim milk or nonfat dry milk solids quotation for "other brands, human consumption, carlots, bags, or barrels," (using midpoint of any range as one quotation) published for the delivery period in "The Producers' Price—Current," and subtract 48 cents.

(5) For Class III milk, the price shall be computed as follows: multiply the applicable butterfat value computed pursuant to subdivisions (i) or (ii) of this subparagraph by 3.5, add an amount obtained by multiplying by 7.5 the average of all hot roller process dry skim milk or nonfat dry milk solids quotations for "other brands, human consumption, carlots, bags, or barrels" (using midpoint of any range as one quotation) published for the delivery period in "The Producers' Price—Current," subtract 10 cents (transportation allowance) and subtract 70 cents (handling allowance). The butterfat value for the months of March through July shall be computed pursuant to subdivision (i) of this subparagraph, and the butterfat value for the months of August through February shall be computed pursuant to subdivision (ii) of this subparagraph: *Provided*, That during the months of August through February the butterfat value shall be no lower than that computed pursuant to subdivision (i) of this subparagraph.

(i) To the average of highest prices reported daily during such month by the United States Department of Agriculture for U. S. Grade A or U. S. 92–score butter at wholesale in the New York market, add two cents and multiply by 1.24.

(ii) Divide the weighted average price per 40-quart can of 40 percent bottling quality cream in the Boston market as reported by the United States Department of Agriculture for such month by 33.48. In the event that no such price is reported, the butterfat value shall be computed pursuant to subdivision (i) of this subparagraph.

(b) *Butterfat differentials.* The minimum price for Class I–A, Class I–B and Class I–C milk shall be plus or minus four cents for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent. The minimum price for Class II and Class III milk shall be plus or minus, for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent, an amount computed as follows: subtract from the respective class prices an amount computed pursuant to paragraph (a) (4) (ii) of this section, and divide by 35.

(c) *Transportation differentials.* The market administrator shall, from time to time, determine and publicly announce for each pool plant the freight zone set forth in the following schedule: *Provided*, That no new freight zone for any pool plant for which a previously determined freight zone is in effect for the month of March 1949 shall be established by the market administrator for any month prior to January 1950. The freight zone for plants located in the marketing area shall be the 1–10 mile zone. The freight zones for plants outside the marketing area shall be based on the railroad mileage distance from the plant to New York City terminals to the nearest railway shipping point, or the shortest highway mileage distance from the plant to Columbus Circle, New York City, as computed from the latest mileage guide issued by the Household Goods Carriers' Bureau, Agent, Washington, D. C., whichever is shorter. The minimum prices set forth in paragraph (a) of this section shall be plus or minus the amounts as set forth in the following schedule:

A	B	C
Freight zone (miles)	Classes I-A, I-B and I-C and skim milk subject to the fluid skim differential	Classes II and III
	Cents per cwt.	*Cents per cwt.*
1-10	+15	+8
11-20	+14	+8
21-25	+13	+8
26-30	+13	+7
31-40	+13	+7
41-50	+10.5	+7
51-60	+10.5	+6
61-70	+9.5	+6
71-75	+8	+6
76-80	+8	+5
81-90	+8	+5
91-100	+7	+5
101-110	+7	+4
111-120	+6	+4
121-125	+5	+4
126-130	+5	+3
131-140	+5	+3
141-150	+3.5	+3
151-160	+2.5	+2
161-170	+2.5	+2
171-175	+1.5	+2
176-180	+1.5	+1
181-190	+1.5	+1
191-200	0.0	+1
201-210	0.0	0
211-220	−1	0
221-225	−1	0
226-230	−1	−1
231-240	−2	−1
241-250	−2	−1
251-260	−3.5	−2
261-270	−3.5	−2
271-275	−3.5	−2
276-280	−3.5	−3
281-290	−4.5	−3
291-300	−5.5	−3
301-310	−5.5	−4
311-320	−5.5	−4
321-325	−7	−4
326-330	−7	−5
331-340	−7	−5
341-350	−8	−5
351-360	−8	−6
361-370	−8	−6
371-375	−9	−6
376-380	−9	−7
381-390	−9	−7
391-400	−9	−7
401-410	−10.5	−8
411-420	−10.5	−8
421-425	−10.5	−8
426-430	−10.5	−9
431-440	−11.5	−9
441-450	−11.5	−9
451-460	−11.5	−10
461-470	−12.5	−10
471-475	−12.5	−10
476-480	−12.5	−11
481-490	−14	−11
491-500	−14	−11

(d) *Butter-cheese adjustment.* (1) For milk received from producers which is classified as Class III pursuant to § 927.4 (c) (5) (iii), and which leaves or is on hand at the plant at which classification is determined in the form of butter or Cheddar, American Cheddar, Colby, washed curd, or part skim Cheddar cheese, or is assigned to plant loss which pursuant to § 927.4 (a) (4) is associated with such products, there shall be credited to the handler receiving the milk from producers four cents per pound of butterfat in such milk: *Provided*, That for such milk received from producers at a plant in a freight zone farther from New York City than the 321–325 mile zone, there shall be deducted from the amount so credited the following amounts per hundredweight of milk:

Zones of plant:	*Cents per hundredweight*
326–350	1
351–375	2
376–400	3
401–425	4
426–450	5
451–475	6
476–500	7

(2) With respect to each plant at which milk received from producers is reported by the handler operating the plant to have been utilized (either at the plant where received or at another plant), in an amount exceeding an average of 4,000 pounds per day in the manufacture of butter or of Cheddar, American Cheddar, Colby, washed curd or part skim Cheddar cheese, the market administrator shall publicly disclose (i) the location of the plant at which the milk was received from producers, and (ii) the name of the handler operating such plant. Such public disclosure shall be made monthly on the basis of handler's monthly reports, and may be made more frequently on the basis of such other utilization reports as may be required by the market administrator.

(e) *Fluid skim differential.* For skim milk derived from Class II or Class III milk which enters the marketing area in the form of milk, fluid skim milk, or in the form of cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, and for all skim milk which is not accounted for in some product leaving or on hand at a plant, the handler shall pay a fluid skim differential per hundredweight computed as follows: deduct the price of Class II milk computed pursuant to paragraph (a) (4) of this section from the price for Class I–A milk computed pursuant to paragraph (a) (1) of this section, and divide by .9125.

(f) *Use of equivalent prices.* If for any reason a price (or prices) for milk or any milk product specified in this section for use in computing and announcing class prices or for any other purpose is not reported or published in the manner therein described, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

(g) *Announcement of prices.* The market administrator shall compute and publicly announce prices as follows:

(1) Not later than the 25th day of each month:

(i) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month, of the highest prices reported daily by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market.

(ii) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month, of prices (using the midpoint of any range as one quotation) reported daily in "The Producers' Price—Current" for hot roller process dry skim milk or nonfat dry milk solids "other brands, human consumption, carlots, bags or barrels."

(iii) The average, for the period beginning with the 25th of the immediately preceding month and ending with the 24th of the current month, of the prices (using the midpoint of any range as one quotation) reported daily in "The Producers' Price—Current" for hot roller process dry skim milk or nonfat dry milk solids "other brands, animal feed, carlots, bags, or barrels."

(iv) The simple average of the averages computed pursuant to subdivisions (ii) and (iii) of this subparagraph.

(v) The preliminary Class I–A price for the following month pursuant to paragraph (a) (1) of this section.

(vi) The preliminary calculation for the following month pursuant to paragraph (a) (4) (i) of this section.

(2) Not later than the 5th day of each month for the preceding month:

(i) The minimum class prices, pursuant to paragraph (a) of this section.

(ii) The butterfat differentials, pursuant to paragraph (b) of this section.

(iii) The butter and cheese differential, pursuant to paragraph (d) of this section.

(iv) The fluid skim differentials, pursuant to paragraph (e) of this section.

(v) The weighted average price, as reported by the United States Department of Agriculture, per 40-quart can of 40 percent bottling quality cream in the Boston market.

(vi) The average of the highest prices reported daily by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market.

(vii) The average of the prices (using midpoint of any range as one quotation) reported daily in "The Producers' Price—Current," for hot roller process dry skim milk or nonfat dry milk solids "other brands, human consumption, carlots, bags, or barrels."

§ 927.6 *Reports of handlers*—(a) *Monthly reports.* On or before the 10th day of each month, each handler shall report to the market administrator for the preceding month, in the manner and on forms prescribed by the market administrator, with respect to milk or milk products received at each of his pool plants, and at each of his plants where milk or milk products subject to payments under § 927.9 (h) were handled, the following:

(1) The total quantity of milk and of each milk product, with the average butterfat content thereof, received from dairy farmers, from other plants, from such handler's own farm, from other handlers, and from other sources;

(2) The total quantity of milk and of each milk product moved out of, or on hand at, such plant, the average butterfat content thereof, and the destination of any milk or milk product the classification of which wholly or partially depends upon its destination, moved out of such plant;

(3) The disposition of milk or milk products at each other plant at which the disposition of any milk or milk products is claimed as the basis of classification, such disposition to be covered by a signed statement of the plant operator if such other plant is not a pool plant;

(4) The computation pursuant to § 927.7 (a) of such handler's net pool obligation; and

(5) The computation of the amount of any payments pursuant to § 927.9 (h).

(b) *Producer pay roll reports.* Each handler shall report with respect to producers as follows:

(1) On or before the 10th day after the end of each month, the information required by the market administrator

with respect to producer additions, producer withdrawals, and changes in names of farm operators; and

(2) On or before the last day of each month, such handler's producer pay roll for the preceding month, which shall show for each producer:

(i) The total delivery of milk with the average butterfat test thereof,

(ii) The amount of payment due such producer,

(iii) Any deductions and charges made by the handler,

(iv) The net amount of payment to such producer made pursuant to § 927.8, and

(v) Such other information with respect thereto as the market administrator may require.

(c) *Storage cream reports.* (1) On or before the last day of the period for establishing classification pursuant to § 927.4 (a) (2), or, if earlier, not later than 15 days prior to the date of final removal of the cream from storage, each handler who separates milk the cream from which is stored as a basis for Class III classification pursuant to § 927.4 (c) (5) (ii) shall report to the market administrator on forms prescribed by the market administrator information with respect to the storage of cream. Failure to make such report shall result in the disallowance of Class III classification pursuant to § 927.4 (c) (5) (ii).

(2) The handler who made reports pursuant to subparagraph (1) of this paragraph shall report to the market administrator, not later than the end of the second month following the month during which frozen cream is utilized, information with respect to the utilization of such cream. Failure to make such reports shall result in the disallowance of storage cream payments pursuant to § 927.9 (g) (2).

(d) *Other reports.* At such times as the market administrator may request, each handler shall report to the market administrator in the manner and on forms prescribed by the market administrator:

(1) The total quantity of milk and of each milk product received at his non-pool plants, with the average butterfat content thereof, from dairy farmers, from other plants, from such handler's own farm, from other handlers, and from other sources;

(2) The total quantity of milk and of each milk product moved out of, or on hand at, his non-pool plants, the average butterfat content thereof, and the destination of any milk or milk product moved out of such plants;

(3) Information concerning land, buildings, surroundings, facilities, and equipment at any of his plants;

(4) The current receipts and utilization of milk at each of his pool plants; and

(5) Such other information as may be necessary for the administration of the provisions hereof.

(e) *Verification of reports and payments.* The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose disposition of milk such handler claims classification, and each such handler shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities, of his own or other persons, as will enable the market administrator to:

(1) Verify the receipts and disposition of all milk required to be reported pursuant to this section, and, in case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends;

(3) Verify the payments to producers prescribed in § 927.8; and

(4) Verify all claims for payments pursuant to § 927.9 (f) and (g).

(f) *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided,* That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 927.7 *Determination of uniform price.* The uniform price shall be computed in accordance with the provisions set forth in this section. Milk received from farms in Nassau or Suffolk Counties, New York, which farms are not approved for sale of milk in New York City, or received from the handler's own farm shall not be included in this computation, and such milk shall be deemed to be excluded by the phrase, "milk received from producers" as such phrase is used in paragraphs (a) and (b) of this section, in paragraph (d) of § 927.5, in paragraphs (d), (f) and (g) of § 927.9 and in § 927.10.

(a) *Net pool obligation of handlers.* (1) Determine the classification pursuant to § 927.4 of milk received from producers at each pool plant;

(2) Subject to adjustment for appropriate differentials pursuant to § 927.5 (b) and (c), multiply the Class I–C milk by 20 cents per hundredweight, multiply the remaining milk in each class by the class price, multiply the skim milk subject to the fluid skim differential by the fluid skim differential per hundredweight, and add together the resulting values;

(3) Deduct, in the case of each plant where the average butterfat content of all milk received from producers is in excess of 3.5 percent and add, in the case of each plant where the butterfat content of all milk received from producers is less than 3.5 percent, the total value of the butterfat differential applicable pursuant to § 927.8 (c);

(4) Deduct, in the case of each plant nearer New York City than the 201–210 mile zone, and add, in the case of each plant farther from New York City than the 201–210 mile zone, the sum obtained by multiplying the milk received from producers by the zone differential set forth in column B of the schedule in § 927.5 (c) applicable to the plant;

(5) Deduct the total amount of the butter-cheese adjustment computed pursuant to § 927.5 (d);

(6) With respect to milk received from producers, deduct 30 cents per hundredweight at plants in the marketing area; and 20 cents per hundredweight at plants located at Accord, Ellenville, Gardiner, Kyserike, New Paltz, Phinney's Crossing, Wallkill, and West Coxsackie, New York, and in the following counties:

NEW JERSEY COUNTIES

Burlington.	Somerset.
Essex.	Sussex.
Hunterdon.	Union.
Morris.	Warren.
Passaic.	

NEW YORK COUNTIES

Columbia.	Putnam.
Dutchess.	Rockland.
Orange.	

CONNECTICUT

Litchfield.

MASSACHUSETTS

Berkshire.

(7) Add together the handler's net pool obligation for all plants at which milk was received from producers.

(b) *Computation of the uniform price.* The market administrator shall, on or before the 14th day of each month, audit for mathematical correctness and obvious errors the report submitted for the preceding month by each handler. If the unreserved cash balance in the producer settlement fund to be included in the computation is less than two cents per hundredweight of milk received from producers on all reports, the report of any handler who has not made payment of the last monthly pool debit account rendered pursuant to § 927.9 (a) shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until he has made full payment of outstanding monthly pool debits. Subject to the aforementioned conditions the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the net pool obligations of all handlers;

(2) Subtract the total of payments required to be made for such month by § 927.9 (f);

(3) Add the total payments required to be made by handlers for such month pursuant to § 927.9 (h);

(4) Add the amount of unreserved cash in the producer settlement fund;

(5) Subtract an amount equal to not less than four cents nor more than five cents per hundredweight of milk received

from producers to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers;

(6) Subtract the Class I–C milk of all handlers whose reports are included in this computation from the total milk received from producers by all such handlers; and

(7) Divide the result obtained in subparagraph (5) of this paragraph by the result obtained in subparagraph (6) of this paragraph. The result shall be known as the uniform price for milk containing 3.5 percent butterfat received from producers at plants in 201–210 mile zone.

(c) *Announcement of uniform price and weighted average butterfat differential.* The market administrator shall announce not later than the 14th day of each month, the uniform price computed pursuant to paragraph (b) of this section, and not later than the 5th day of each month, the weighted average butterfat differential pursuant to § 927.8 (c).

§ 927.8 *Payment by handlers directly to producers*—(a) *Time and rate of payments.* On or before the 25th day of each month each handler shall make payment to each producer for all milk delivered by such producer during the preceding month at not less than the uniform price subject to differentials set forth in paragraphs (b) and (c) of this section: *Provided,* That each handler which is also a cooperative marketing association determined by the Secretary to be qualified under the Capper-Volstead Act, may, with respect to producers who are members of and under contract with such association, make distribution, in accordance with the contract between the association and such members, of the net proceeds of all its sales in all markets in all use classifications. Whenever verification by the market administrator of the payment to any producer or cooperative association of producers for milk delivered to any handler discloses payment of less than is required by this order, the handler shall make up such payment to the producer or cooperative association of producers not later than the time of making payment next following such disclosure: *Provided, further,* That if a handler claims that he cannot make the required payment because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, such payment shall be made to the producer settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make such payment from the producer settlement fund to the handler or to the lawful claimant as the case may be: *Provided, further,* That if not later than the date when such payment is required to be made, legal proceedings have been instituted by the handler for the purpose of administrative or judicial review of the market administrator's finding upon verification as provided above, such payment shall be made to the producer-settlement fund and shall be held in reserve until such time as the above-mentioned proceedings have been completed, or until the handler submits proof to the market administrator that the required payment has been made to the producer or association of producers, in which latter event the payment shall be refunded to the handler.

(b) *Transportation and location differentials.* The uniform price at any plant shall be:

(1) Plus or minus the differential shown in column B of the schedule contained in § 927.5 (c) for the zone of the plant in effect pursuant to § 927.5 (c); and

(2) Plus the differentials, if any, applicable pursuant to § 927.7 (a) (6) plus five cents.

(c) *Butterfat differential.* The uniform price shall be plus or minus, as the case may be, for each one-tenth of one percent above or below 3.5 percent of average butterfat content of milk delivered by any producer during any month, an amount equivalent to the average of the butterfat differentials determined pursuant to § 927.5 (b) for each class weighted by the pounds of butterfat in the milk in each such class used in the computation of the uniform price for the preceding month. Such differential shall be computed to the nearest even tenth of a cent.

§ 927.9 *Producer settlement fund and its operation.* The market administrator shall establish and maintain a separate fund known as "the producer settlement fund" into which he shall deposit all payments and out of which he shall make all payments pursuant to this section.

(a) *Handler's accounts.* The market administrator shall establish an account for each handler who is required to make payments to the producer settlement fund or who received payments from the producer settlement fund. After computing the uniform price and each handler's pool debit or credit each month, and at such times as he deems appropriate, the market administrator shall render each handler a statement of his account showing the debit or credit balance, together with all debits or credits entered on such handler's account since the previous statement was rendered.

(b) *Payment to the producer settlement fund.* On or before the 18th day of each month each handler shall make full payment of the debit balance, if any, of such handler shown on the last statement of account rendered pursuant to paragraph (a) of this section.

(c) *Payments out of producer settlement fund.* On or before the 20th day of each month the market administrator shall make payment to each handler of the credit balance, if any, of such handler shown on the last statement of account rendered pursuant to paragraph (a) of this section. If, at any such time, the balance in the producer settlement fund is insufficient to make full payment due to each handler, the market administrator shall reduce uniformly the payments to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received such payments in full from the market administrator shall be deemed to be in violation of § 927.8, if he reduces his total payments to producers for milk delivered by such producers during the preceding month by not more than the amount of the reduction in payment from the producer settlement fund.

(d) *Handlers' pool debit or credit.* After computing the uniform price for each month, the market administrator shall compute each handler's pool debit or pool credit as follows:

(1) Add to each handler's net pool obligations the value of his Class I–C milk at the uniform price.

(2) Multiply the quantity of milk received by each handler from producers by the uniform price.

(3) If the result obtained in subparagraph (2) of this paragraph is less than the result in subparagraph (1) of this paragraph, the difference shall be entered on the handler's producer settlement fund account as such handler's pool debit.

(4) If the result obtained in subparagraph (2) of this paragraph is greater than the result in subparagraph (1) of this paragraph, the difference shall be entered on the handler's producer settlement fund account as such handler's pool credit.

(e) *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer settlement fund, the market administrator shall debit the handler's producer settlement fund account for any unpaid amount. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall credit the handler's producer settlement fund account for any such amount.

(f) *Cooperative payments.* Any cooperative association of producers may apply to the Secretary for a determination of its qualifications to receive payments pursuant to this paragraph by reason of its having and exercising full authority in the sale of the milk of its members; arranging for and supplying, in a manner commensurate with the marketing capacity of the several types of cooperative associations designated in this paragraph, in times of short supply, Class I milk to the marketing area; securing utilization of milk, in times of long supply, in a manner to assure the greatest possible return to all producers; having its entire activities under the control of its members; and complying with all provisions of this order applicable to it.

After the Secretary has determined any cooperative to be qualified to receive payments pursuant to this paragraph, such cooperative shall, from time to time, as requested by the market administrator, make reports to the market administrator with respect to services rendered to the market and the use of the sums received under this paragraph. Whenever the market administrator has reason to believe that any cooperative qualified by the Secretary is failing to perform the obligations covered by the payments under this paragraph, he shall suspend and hold in reserve such pay-

ments, notifying the Secretary and the cooperative of his action and the reasons therefor. Such suspended payments shall be held in reserve until the Secretary has, after hearing, disqualified such cooperative or ruled upon the performance of the cooperative and either ordered the suspended payments to be paid to the cooperative in whole or in part or disqualified the cooperative, in which event the balance of payments held in reserve shall be returned to the producer settlement fund.

The market administrator shall make the payments authorized by this paragraph, or issue credit therefor, out of the producer settlement fund on or before the 25th day of each month, subject to verification of the reports upon which such payment is based. Such payments shall be made to each cooperative association of producers under the following conditions and at the following rates:

(1) Three-quarters of one cent per hundredweight of milk received from producers at any handler's plant which was caused to be delivered from its members by such associations and on which such handler has made the reports and payments required by this order;

(2) Except as set forth in subparagraph (3) of this paragraph, two cents per hundredweight of milk received from producers at plants of other complying handlers which was reported and collected for by such association; and

(3) Four cents per hundredweight of milk received from producers at plants operated by such association and, if, in addition to the other qualifications, such association has been determined by the Secretary to have sufficient plant capacity to receive all the milk of producers who are members and to be willing and able to receive milk from producers not members, four cents per hundredweight of milk received from producers which was caused by it to be delivered to any other complying handler and which is reported and collected for by such association.

(g) *Storage cream payments.* (1) For milk received from producers which is classified as Class III pursuant to § 927.4 (a) (5) (ii) the butterfat from which is subsequently assigned in accordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 927.4 (b) to sour cream or reconstituted cream shipped to, received in, or distributed in the marketing area, or is not established to have been otherwise utilized, or to be still in storage, the handler required to file reports pursuant to § 927.6 (c) shall pay to the producer settlement fund or be issued debits against balances due to such handler from the producer settlement fund an amount equal to 9 cents per pound of butterfat if the milk was separated in the months of March through July, and 10 cents per pound of butterfat if the milk was separated in the months of August through February: *Provided*, That for butterfat in such milk separated in the months of April through July 1949, the payment shall be no greater than an amount computed as follows: multiply by 10 the Class II butterfat differential for the month when the butterfat was utilized in sour cream or reconstituted cream, subtract 4 cents, and subtract 10 times the butterfat differential for Class III for the month during which the cream was separated.

(2) On the basis of reports pursuant to § 927.6 (c) (2) of the utilization of frozen cream which cream was separated from milk received from producers, and the market administrator's investigation and audit of such reports, the market administrator shall make payment out of the producer settlement fund to the handler filing such reports, or issue credit against balances due from such handler to the producer settlement fund, an amount equal to and under conditions set forth in subdivision (i) and (ii) of this subparagraph.

(i) For cream which was separated in the months of April through September and was assigned, in accordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 927.4 (b), to butter in the months of January through March, an amount per pound of butterfat equal to the butter-cheese adjustment.

(ii) For cream which was separated in the months of April through July 1949 and was assigned, in accordance with the provisions of the rules and regulations issued by the market administrator pursuant to § 927.4 (b), after July 1949 to products other than sour cream or reconstituted cream shipped to, received in, or distributed in the marketing area, or other than to butter in the month of January through March, any amount by which the butterfat value used in computing the Class III price for the month in which the butterfat was assigned is lower than the butterfat value used in computing Class III price for the month in which the milk was separated: *Provided*, That the amount per pound of butterfat shall be no greater than the butter-cheese adjustment.

(h) *Payments for milk or milk products from other than producer sources.* (1) Payment shall be made by handlers to producers, through the producer-settlement fund, for milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or skim milk, which milk or milk product meets each of the following provisions:

(i) It was derived from milk received at some plant from dairy farmers (other than the handler operating such plant) who are not producers;

(ii) It was received at a plant in, or delivered to a purchaser in the marketing area, or was received at a pool plant outside the marketing area and assigned either to shipments to the marketing area of milk, fluid milk products, cultured or flavored milk drinks, cream, fluid cream products, or skim milk, or to plant loss; and

(iii) The milk or milk equivalent of the butterfat is classified as Class I–A or Class II, or the skim milk is subject to the fluid skim differential.

(2) The amount of payment for the products set forth in subparagraph (1) of this paragraph shall be as follows:

(i) If the milk, or the milk equivalent of the butterfat, or the skim milk is classified and paid for under another order issued pursuant to the act, the amount of payment on such products except skim milk shall be any plus amount obtained by subtracting the value of the milk or the milk equivalent of the butterfat at the class price or prices under such order from the value computed in accordance with the classification and pricing set forth herein. The amount of payment on skim milk shall be an amount computed pursuant to § 927.5 (e).

(ii) If the milk or milk products is derived from milk the handling of which is not regulated by another order issued pursuant to the act, the amount of payment shall be as follows: For milk, fluid milk products, or for cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, the difference between the value of such milk, fluid milk products, or cultured or flavored milk drinks at the Class I–A price in the 201–210 mile zone and the Class III price in the 201–210 mile zone; for cream, fluid cream products, or for cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, the difference between the value of the milk equivalent of such cream, or milk drinks at the Class II price and at the value computed at the Class III price (milk equivalent in each case to be computed on the basis of milk containing 3.5 percent of butterfat); and for skim milk (either as skim milk or in cultured or flavored milk drinks), the amount computed pursuant to § 927.5 (e).

(iii) In the event that the source of such milk or milk product is not revealed, the amount of the payment shall be as follows: On milk, fluid milk products, or cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, the value at the Class I–A price in the 201–210 mile zone; on cream, fluid cream products, or cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, the value of the milk equivalent of such product at a rate per hundredweight computed pursuant to § 927.5 (a) (4) (i) (milk equivalent to be computed on the basis of milk containing 3.5 percent of butterfat); and on skim milk in the form of fluid skim milk or cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent of butterfat, the value at a rate per hundredweight computed as follows: Divide the amount computed pursuant to § 927.5 (a) (4) (ii) by 0.9125 and add an amount computed pursuant to § 927.5 (e).

(3) Payment for any milk or milk product pursuant to this paragraph shall be made only once and shall be made by the appropriate handler as set forth in the following provisions:

(i) By the handler first receiving the milk or milk product at a pool plant outside the marketing area;

(ii) By the handler operating the plant where the milk or milk product is first received in the marketing area if the milk or milk product is not received at a pool plant outside the marketing area; or

(iii) By the handler operating the plant from which the milk or milk product was delivered to a purchaser in the marketing area if such milk or milk

product is neither received at a pool plant outside the marketing area nor at a plant in the marketing area.

(4) The amount due pursuant to this paragraph shall be entered on the handler's account as a debit immediately after the filing of the report pursuant to § 927.6 (a).

§ 927.10 *Expense of administration*—(a) *Payment by handlers.* As his pro rata share of the expense of administration hereof, each handler shall, on or before the 18th day of each month, pay to the market administrator a sum not exceeding two cents per hundredweight on the total quantity of milk which was received from producers at plants operated by such handler, directly or at the instance of a cooperative association of producers, the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under an order issued by the Commissioner of Agriculture and Markets of the State of New York, with respect to the marketing area. Whenever verification by the market administrator discloses an error in the payment made by any handler, such error shall be adjusted not later than the date next following such disclosure on which payments are due pursuant to this section.

§ 927.11 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received (or with respect to storage cream payments pursuant to § 927.9 (g), two years after the end of the calendar month during which such cream is utilized) if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable periods of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

§ 927.12 *Suspension, termination, and liquidation*—(a) *Continuing obligation of handlers.* Unless otherwise provided by the Secretary in any notice of amendment, termination, or suspension of any or all of the provisions hereof, such amendment, termination, or suspension shall not affect, waive, or terminate any right, duty, obligation, or liability which shall have risen or may thereafter arise in connection with any provision of this order; release or waive any violation of this order occurring prior to the effective date of such amendment, termination, or suspension; or affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

(b) *Continuing power and duty of market administrator.* The market administrator shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator pursuant hereto.

(c) *Liquidation.* Upon the termination or suspension hereof, the market administrator shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such termination or suspension. Any funds collected for expenses, pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator in liquidating the business of the market administrator's office shall be distributed by the market administrator to handlers in an equitable manner.

§ 927.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

Issued at Washington, D. C., this 28th day of March 1949 to be effective on and after the 1st day of April 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2415; Filed, Mar. 31, 1949; 8:52 a. m.]

PART 927—MILK IN NEW YORK METROPOLITAN MARKETING AREA

TEMPORARY AMENDMENT

Pursuant to the provisions of Order No. 27, as amended (7 CFR, Supps. 927.1 et seq., 13 F. R. 1396, 1641, 4342, 8734, 14 F. R. 791), regulating the handling of milk in the New York metropolitan milk marketing area, it is hereby found and determined that, in order to effectuate the terms and provisions of said order, as amended and as further amended effective April 1, 1949, an emergency exists requiring the immediate adoption of the temporary amendment issued by the Market Administrator, New York metropolitan milk marketing area on March 24, 1949, amending the rules and regulations (11 F. R. 11266, 12 F. R. 457, 3241, 13 F. R. 2709, 14 F. R. 519) heretofore issued pursuant to said order. Said temporary amendment, annexed hereto and made a part hereof, is hereby approved to become effective April 1, 1949.

It is necessary that the said temporary amendment to the rules and regulations issued by the market administrator be made effective on April 1, 1949 in order to effectuate the terms and provisions of the said order as amended effective April 1, 1949 and to avoid the existence of rules and regulations inconsistent with provisions of the order. The changes effected by this amendment do not required substantial or extensive preparation by handlers prior to the effective date. In accordance with sec. 4 of the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001–1011), notice of proposed rule making, public procedure thereon, and publication hereof 30 days prior to the effective date specified herein are found to be impracticable, unnecessary, and contrary to the public interest.

Copies of the temporary amendment to the rules and regulations may be procured from the Market Administrator,

205 East 42d Street, New York, New York.

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq.; 7 CFR, Supps., 927.1 et seq., 13 F. R. 1396, 1641, 4342, 8734, 14 F. R. 791)

Done at Washington, D. C., this 28th day of March 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

The rules and regulations issued pursuant to the provisions of Order No. 27, as amended (7 CFR, Supps. 927.1 et seq., 13 F. R. 1396, 1641, 4342, 8734, 14 F. R. 791), which rules and regulations became effective on November 1, 1945 (10 F. R. 13095) and which were subsequently amended effective on October 1, 1946, February 1, 1947, June 1, 1947, and June 1, 1948 (11 F. R. 11266, 12 F. R. 457, 3241, 13 F. R. 2709, 14 F. R. 519) are hereby further amended as follows:

1. Amend § 927.101 as follows:

A. In paragraph (k) change the term "Class II–B" to "Class III," and change the section reference from § 927.4 (c) (5) to § 927.4 (c) (5) (ii).

B. Add new definitions as follows:

(aa) "Fluid milk products" means products which meet the definition of milk as set forth in paragraph (e) of this section, but to which are added ingredients other than those derived from milk, such ingredients not to exceed 4 percent. This definition shall not be deemed to include products that are included in other definitions in this section.

(bb) "Fluid cream products" means products which meet the definition of cream as set forth in paragraph (j) of this section, but to which are added ingredients other than those derived from milk, such ingredients not to exceed 8 percent, which products are not subsequently utilized in frozen desserts. This definition shall not be deemed to include products that are included in other definitions in this section.

2. Amend § 927.102 as follows:

A. In paragraph (c) (3) change the words "lowest class price" to "lowest net return."

B. In paragraphs (k) (2), (s), (u), (w), (x), (z), and (dd) change the words "Class II–A" to "Class II" wherever they appear.

C. In paragraph (l) add the words "or more than 5 percent" after the words "less than 3 percent" wherever they appear.

D. Amend paragraph (m) to read as follows:

(m) Deduct butterfat received in the form of cultured or flavored milk drinks of less than 3 percent or more than 5 percent butterfat from butterfat in cultured or flavored milk drinks of less than 3 percent or more than 5 percent butterfat leaving the plant or in closing inventories at the plant. If such butterfat is pooled butterfat it should be deducted, as far as possible, from butterfat in cultured or flavored milk drinks of less than 3 percent or more than 5 percent butterfat classified as Class II. If such butterfat is nonpooled butterfat, it should be deducted, as far as possible, from butterfat in cultured or flavored milk drinks of less than 3 percent or more than 5 percent butterfat classified as Class III. Deduct any remaining butterfat in opening inventories or received in the form of cultured or flavored milk drinks of less than 3 percent or more than 5 percent butterfat from plant loss and classify it as Class II.

E. In paragraph (q) delete the words "and classified as II–B."

F. In paragraph (x) change the words "Class III cheese" to "other cheese, except those to which the butter-cheese adjustment is applicable."

G. Amend paragraph (y) to read:

(y) Deduct the remaining butterfat in the opening inventories or received in the form of frozen cream pro rata from classes of butterfat leaving the plant or in closing inventories at the plant in cream, except Class II, and in Class III cultured or flavored milk drinks.

H. In paragraph (cc) add the words, "fluid cream products" after the words "frozen cream," change the term "Class II–A" to "Class II," and change the term "Class III cheese" to "other cheese, except those to which the butter-cheese adjustment is applicable."

I. In paragraphs (ee), (ff), (kk), and (ll) add the words "but not more than 5 percent butterfat" after the words "3 percent butterfat or more" wherever they appear.

J. In paragraph (jj) add the following:

(15) Fluid cream products, 2.5 percent.

K. In paragraph (pp) delete the following: "Classification of butterfat deducted pursuant to paragraph (q) of this section may be interchanged with the butterfat deducted pursuant to paragraph (nn) of this section from the same products covered by paragraph (q) of this section or with the classification of butterfat in receipts from dairy farmers classified on the basis of products covered by paragraph (q) of this section."

3. Amend § 927.103 as follows:

A. In the section heading change the words "butterfat and skim milk classes" to "butterfat classes and skim milk uses."

B. Delete the sentence just prior to paragraph (a).

C. Delete paragraphs (a) and (b).

D. Amend paragraph (c) (1) by changing the period to a comma and adding the following: "separately tabulating that part of Class III subject to the butter-cheese adjustment and that part of Class III not subject to the butter-cheese adjustment."

E. Amend paragraph (c) (2) to read as follows:

(2) Butterfat received in the form of non pooled cream shall be assigned pro rata as far as possible to Class I–B, Class I–C, Class III not subject to the butter-cheese adjustment and Class III subject to the butter-cheese adjustment which have been tabulated pursuant to subparagraph (1) of this paragraph. Any remaining non pooled butterfat shall be assigned to Class II as far as possible and then to Class I–A.

F. Amend paragraph (d) (1) by changing the period to a comma and adding the words "separately tabulating that part of Class III subject to the butter-cheese adjustment and that part of Class III not subject to the butter-cheese adjustment."

G. Amend paragraph (d) (2) to read as follows:

(2) Butterfat received in the form of non pooled milk, including non pooled milk from dairy farmers, shall be assigned pro rata as far as possible to Class I–B, Class I–C, Class III not subject to the butter-cheese adjustment and Class III subject to the butter-cheese adjustment which have been tabulated pursuant to subparagraph (1) of this paragraph. Any remaining non pooled butterfat shall be assigned to Class II as far as possible and then to Class I–A.

H. Amend paragraph (e) to read as follows:

(e) *Skim milk.* (1) Pooled skim milk (including exempt skim milk) shall be assigned as far as possible to skim milk subject to the fluid skim differential.

(2) Exempt skim milk shall be assigned pro rata to skim milk subject to the fluid skim differential and skim milk not subject to the fluid skim differential.

(3) Pooled skim milk from separate sources may be assigned at the option of the handler or handlers involved to either the skim milk subject to the fluid skim differential or to the skim milk not subject to the fluid skim differential after the assignment pursuant to subparagraph (2) of this paragraph.

4. Amend § 927.104 as follows:

A. Change the term "Class II–A" to "Class II" wherever it appears.

B. Delete the sentence which reads: "Butterfat in opening inventories of plain condensed milk that is allocated to butterfat in closing inventories of plain condensed milk shall be classified as Class II–B."

5. Amend § 927.105 as follows:

A. In paragraph (c) (3) add the words "or more than 5 percent" after the words "less than 3 percent."

B. In paragraph (c) (5) change the term "Class IV–B cheeses" to "cheeses subject to the butter-cheese adjustment" wherever such term appears.

C. In paragraph (c) (6) change the term "Class III cheeses" to "cheeses other than cream cheese and cheeses subject to the butter-cheese adjustment" wherever the term appears.

D. In paragraph (c) (8) change the words "the sources of such butterfat as a receipt of milk from producers" to "the place and time of separation."

6. Amend § 927.106 as follows: Change the words "Class III or Class IV–B cheeses" to "cheeses other than cream cheese."

7. Amend § 927.107 as follows:

A. Amend paragraph (b) to read as follows:

(b) Remaining butterfat received or in the opening inventories in the form of frozen cream which frozen cream was obtained from milk separated in the months of April through September shall be pro rated to uses of butterfat in the

form of frozen cream as determined pursuant to § 927.102 (v), (w), (x), (y), (z), and (aa). The total butterfat derived from milk separated in each of the months shall be pro rated separately.

B. In paragraph (c) change the words "received from producers" to "separated."

Issued this 24th day of March 1949.

C. J. BLANFORD,
Market Administrator.

[F. R. Doc. 49-2418; Filed, Mar. 31, 1949; 8:52 a. m.]

PART 934—MILK IN LOWELL-LAWRENCE, MASS., MARKETING AREA

ORDER, AMENDING ORDER, AS AMENDED, REGULATING HANDLING

Sec.

AUTHORITY: §§ 934.0 to 934.13 issued under 48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; sec. 102 Reorg. Plan 1 of 1947, 12 F. R. 4534.

§ 934.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq.), a public hearing was held upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as amended and as hereby further amended, and all of the terms and conditions of said order, as amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* (1) It is necessary to make the present amendment to the said order, as amended, effective not later than April 1, 1949 to reflect current marketing conditions. Any further delay in the effective date of this order, amending the said order, as amended, will seriously disrupt the orderly marketing of milk for the Lowell-Lawrence, Massachusetts, marketing area. The changes effected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c). Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the Lowell-Lawrence, Massachusetts, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area, and it is hereby further determined that:

(1) The refusal of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order further amending the order, as amended, is the only practicable means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the Lowell-Lawrence, Massachusetts, marketing area;

(3) The issuance of this order further amending the order, as amended, is approved or favored by at least two-thirds of the producers, who during the determined representative period (October 1948) were engaged in the production of milk for sale in the Lowell-Lawrence, Massachusetts, marketing area.

Order Relative to Handling

It is hereby ordered, That on and after the effective date hereof, the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

§ 934.1 *Definitions.* The following words and phrases shall have the following meanings unless the context requires otherwise:

(a) *General.* (1) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended:

(2) "Lowell-Lawrence, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Andover, Billerica, Chelmsford, Dracut, Lawrence, Lowell, Methuen, North Andover, Tewksbury, Tyngsboro, Westford.

(3) "Boston order" and "New York order" mean the respective orders, as amended, issued by the Secretary, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, and the New York metropolitan marketing area.

(4) "Month" means a calendar month.

(b) *Persons.* (1) "Person" means any individual, partnership, corporation, association, or any other business unit.

(2) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(3) "Dairy farmer" means any person who delivers milk of his own production to a plant, except a producer-handler with respect to his deliveries in packaged form to another handler.

(4) "Producer" means any dairy farmer who delivers milk of his own production to a producer milk plant. The term shall also apply to a dairy farmer who ordinarily delivers milk to a producer milk plant, with respect to milk which the handler who operates the producer milk plant diverts to another plant, if that handler reports the milk as received from a producer and as moved to the other plant. The term shall not apply to a dairy farmer who is a producer under the Boston order, with respect to milk diverted from the plant subject to that order to which the dairy farmer ordinarily delivers.

(5) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and to be engaged in making collective

sales or marketing of milk or its products for the producers thereof.

(6) "Handler" means any person who engages in the handling of milk or other fluid milk products which are received at any plants from which fluid milk products are disposed of, directly or indirectly, in the marketing area.

(7) "Producer-handler" means any person who is both a handler and a dairy farmer, and who receives no milk from other dairy farmers except producer-handlers.

(c) *Plants.* (1) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(2) "Producer milk plant" means any receiving plant which is also a regulated plant, except the plant of a producer-handler.

(3) "Regulated plant" means any plant from which fluid milk products which are classified as Class I milk are disposed of, directly or indirectly, in the marketing area, except a plant at which the handling of milk is regulated under the Boston or New York orders or a plant located outside the New England States and New York.

(4) "City plant" means any plant which is located within 20 miles of the City Hall in Lowell or Lawrence.

(5) "Country plant" means any plant which is located beyond 20 miles of the City Halls in Lowell and Lawrence.

(d) *Milk and milk products.* (1) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(2) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term "cream" also includes sour cream, frozen cream, and milk and cream mixtures containing 16 percent or more of butterfat.

(3) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(4) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, and buttermilk, either individually or collectively.

§ 934.2 *Market administrator*—(a) *Designation.* The agency for the administration of this order shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To make rules and regulations to effectuate its terms and provisions;

(3) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(4) To recommend to the Secretary amendments to it.

(c) *Duties.* The market administrator, in addition to the duties described in the other sections of this order, shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(2) Pay, out of the funds provided by § 934.10, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(3) Keep such books and records as will clearly reflect the transactions provided for in this order and surrender the same to his successor, or to such other person as the Secretary may designate;

(4) Unless otherwise directed by the Secretary, publicly disclose, within 30 days after such nonperformance becomes known to the market administrator, the name of any person who, within 2 days after the date on which he is required to perform such acts, has not

(i) Made reports pursuant to § 934.5 or

(ii) Made payments pursuant to § 934.8; and may at any time thereafter so disclose any such name if authorized by the Secretary to do so;

(5) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this order; and

(6) Promptly verify the information contained in the reports submitted by handlers.

§ 934.3 *Classification of milk and milk products*—(a) *Classes of utilization.* All milk received from producers, and all other milk and milk products which it is necessary to classify in order to classify milk received from producers, shall be classified in accordance with this section. Subject to the other paragraphs of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(2) Class II milk shall be all fluid milk products the utilization of which is established:

(i) As being sold, distributed, or disposed of other than as or in milk; and other than as or in flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(ii) As plant shrinkage, not in excess of 2 percent of the volume handled.

(b) *Basis of classification.* (1) Except as otherwise provided in this section, all fluid milk products received by handlers shall be classified in accordance with their utilization at the last plant at which they are received by any person who distributes milk or manufactures milk products.

(2) Except as otherwise provided in § 934.4 (f), cream shall be classified as Class II milk with respect to each handler who disposes of it in the form of cream.

(3) The burden of proof rests upon the handler who receives milk from producers to account for the milk, and to prove that it should not be classified as Class I milk.

(4) If a handler reports no Class II milk for a given month, and does not submit a revised report regarding classification of his milk within one month after filing the original report, all of his producer receipts during the given month shall remain classified as Class I milk.

(c) *Movements of fluid milk products, except cream, between plants.* (1) Fluid milk products, except cream, which are moved from a handler's plant to a regulated plant or to a plant subject to the Boston order shall be classified as reported by the handler operating the shipping plant, or, if he submits no report, shall be classified as reported by the handler operating the plant to which the fluid milk products are moved. However, no greater quantity of fluid milk products shall be classified as Class II milk under this subparagraph than the total quantity of Class II milk, after deducting receipts of cream, at the plant to which the fluid milk products are moved.

(2) Fluid milk products, except cream, which are moved from a regulated plant to any unregulated plant, except a plant subject to the Boston order, shall be classified as Class I milk, up to the total quantity of the same form of fluid milk products which is utilized as Class I milk at the unregulated plant.

§ 934.4 *Assignment of receipts from other plants*—(a) *Application of this section.* For the purpose of determining the classification of milk received from producers, all receipts of milk and milk products at a regulated plant from any other plant shall first be assigned to Class I milk or Class II milk in accordance with this section.

(b) *General provisions.* Except as otherwise provided in this section, all receipts of fluid milk products at a regulated plant shall be assigned to the class in which it is reported by the handler who operates the shipping plant, or if that handler submits no report, by the handler who operates the plant to which the fluid milk products were moved.

(c) *Assignment of receipts from plants at which the handling of milk is regulated under the Boston or New York orders.* Fluid milk products received from plants at which the handling of milk is regulated under the Boston or New York orders shall be assigned to Class I milk to the extent that the fluid milk products so received are classified as Class I milk under the Boston order, or as Class I-A milk, Class I-B milk, or Class I-C milk under the New York order. Any remaining quantity of such receipts shall be assigned to Class II milk.

(d) *Assignment of receipts from plants located outside the New England States and New York.* Fluid milk products received from plants located outside the New England States and New York shall be assigned to Class I milk if received in

the form of milk, and to Class II milk if received in any form other than milk.

(e) *Limitation on assignment of receipts to Class II milk.* Notwithstanding the provisions of the preceding paragraphs of this section, no greater quantity of receipts of fluid milk products, other than cream, at any regulated plant from other plants shall be assigned to Class II milk than the total quantity of fluid milk products, other than cream, classified as Class II milk at the regulated plant.

(f) *Receipts of cream, and of milk products other than fluid milk products.* All receipts of cream, and of milk products other than fluid milk products, shall be assigned to Class II milk to the extent of Class II utilization by the handler.

§ 934.5 *Reports of handlers*—(a) *Monthly reports of handlers who receive milk from producers.* On or before the 8th day after the end of each month, each handler who receives milk from producers shall, with respect to the fluid milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(1) The receipts of milk at each producer milk plant from producers, including the quantity, if any, received from his own production;

(2) The receipts of fluid milk products at each plant from any other source, assigned to classes pursuant to § 934.4; and

(3) The respective quantities which were sold, distributed, or used, including sales to other handlers, classified pursuant to § 934.3.

(b) *Reports of handlers who receive no milk from producers.* Handlers who receive no milk from producers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(c) *Reports regarding individual producers.* (1) Within 7 days after a producer moves from one farm to another, or starts or resumes deliveries to a handler's plant, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer has been delivering immediately prior to starting or resuming deliveries.

(2) Within 7 days after the 5th consecutive day on which a producer has failed to deliver to a handler's plant, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

(d) *Reports of payments to producers.* Each handler who receives milk from producers shall submit to the market administrator within 5 days after his request, made not earlier than 14 days after the end of the month, his producer pay roll for such month, which shall show for each producer:

(1) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(2) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

(e) *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

(f) *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this section or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(1) Examine those records which are necessary for the verification of the information contained in such reports;

(2) Weigh, sample, and test milk and milk products; and

(3) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary.

(g) *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided,* That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 934.6 *Minimum class prices*—(a) *Class I price; city plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class I milk delivered by them to such handler's city plant, not less than the price per hundredweight determined for each month pursuant to this paragraph. In determining the Class I price for each month the latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest reported figures available on the next succeeding work day shall be used.

(1) Divide by 0.98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(2) Divide by 3 the sum of the three latest monthly indexes of department stores sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935–39 as the base period, and divide the result so obtained by 1.26.

(3) Compute an index of grain-labor costs in the Boston milkshed in the following manner:

(i) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed, as reported by the United States Department of Agriculture, divide by 0.5044, and multiply by 0.6.

(ii) Compute the weighted average of the monthly composite farm wage rates for the latest available month for Maine, Massachusetts, New Hampshire, and Vermont as reported by the United States Department of Agriculture, divide by 0.5952, and multiply by 0.4. In computing the weighted average, weight the respective rates as follows: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77.

(iii) Add the results determined pursuant to subdivisions (i) and (ii) of this subparagraph.

(4) Divide by 3 the sum of the final results computed pursuant to the preceding subparagraphs of this paragraph. Express the result as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(5) Subject to the succeeding subparagraphs of this paragraph, the Class I price per hundredweight shall be as shown in the following table:

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan.-Feb.-Mar.-July-Aug.-Sept.	Apr.-May-June	Oct.-Nov.-Dec.
50–56	$2.21	$1.77	$2.65
57–63	2.43	1.99	2.87
64–70	2.65	2.21	3.09
71–77	2.87	2.43	3.31
78–84	3.09	2.65	3.53
85–90	3.31	2.87	3.75
91–97	3.53	3.09	3.97
98–104	3.75	3.31	4.19
105–111	3.97	3.53	4.41
112–118	4.19	3.75	4.63
119–125	4.41	3.97	4.85
126–132	4.63	4.19	5.07
133–139	4.85	4.41	5.29
140–146	5.07	4.63	5.51
147–152	5.29	4.85	5.73
153–159	5.51	5.07	5.95
160–166	5.73	5.29	6.17
167–173	5.95	5.51	6.39
174–180	6.17	5.73	6.61
181–187	6.39	5.95	6.83
188–194	6.61	6.17	7.05

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(6) For any month after December 1948, the Class I price shall be 44 cents more than the price prescribed in subparagraph (5) of this paragraph if, under the provisions of the Boston order,

less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this subparagraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(7) For any month after December 1948, the Class I price shall be 44 cents less than the price prescribed in subparagraph (5) of this paragraph if, under the provisions of the Boston order, more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this subparagraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(8) Notwithstanding the provisions of the preceding subparagraphs of this paragraph, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

(9) The Class I price determined under the preceding subparagraphs of this paragraph shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201–210 miles, inclusive, as published in the New England Joint Tariff, M–5, and supplements thereto. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

(b) *Class I prices; country plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class I milk delivered by them to such handler's country plant, not less than the applicable price for hundredweight determined pursuant to this paragraph.

(1) For milk delivered by producers to such handler's country plant located within 40 miles of the City Hall in Lowell or Lawrence, the price per hundredweight during each month shall be the price effective pursuant to paragraph (a) of this section, less 17 cents per hundredweight.

(2) For milk delivered by producers to such handler's country plant located beyond 40 miles of the City Halls in Lowell and Lawrence, the price per hundredweight during each month shall be the price effective pursuant to paragraph (a) of this section, less an amount per hundredweight equal to the sum of 13 cents and the average of the freight rates (considering 85 pounds to one 40-quart can), from the railroad shipping point for such handler's plant to Lowell and to Lawrence, calculated according to the lowest applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans.

(c) *Allocation of Class I milk to plants.* For the purpose of this section, each handler's Class I milk during each month, after deducting his receipts of Class I milk from other handlers, shall be considered to have been first, that milk which was received directly from producers at his city plant, and then that milk received from producers, which was shipped as fluid milk products, other than cream, from his country plants, in the order of the nearness of the plants to the City Hall in Lowell or Lawrence.

(d) *Class II price; city plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class II milk delivered by them to such handler's city plant, not less than the price per hundredweight determined for each month pursuant to this paragraph.

(1) Divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month during which such milk is delivered.

(2) For any month for which no cream price as described in subparagraph (1) of this paragraph is reported, multiply by 1.4 the average price reported for such month by the United States Department of Agriculture for U. S. Grade A (U. S. 92-score) butter at wholesale in the Chicago market.

(3) Multiply by 3.7 the amount determined pursuant to subparagraph (1) or (2) of this paragraph, whichever is applicable.

(4) Using the midpoint in any range as one price, compute the average of the prices per pound of roller process nonfat dry milk solids suitable for human consumption, in barrels, in carlots, as published during the month by the United States Department of Agriculture for New York City, subtract one-half cent, and multiply the remainder by 7.5.

(5) Add the results obtained in subparagraphs (3) and (4) of this paragraph, and from the sum subtract the amount shown below for the applicable month. The result is the Class II price per hundredweight for milk received from producers at city plants.

Month:	*Amount (cents)*
January and February	57.5
March and April	69.5
May and June	75.5
July	69.5
August and September	63.5
October, November, and December	57.5

(e) *Class II prices; country plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class II milk delivered by them to such handler's country plant, not less than the price per hundredweight determined pursuant to paragraph (d) of this section minus the amount shown in the following table for the railroad freight mileage zone for the average of the distances to Lowell and to Lawrence from the railroad shipping point for such handler's plant:

Freight zone (miles):	*Amount (cents per cwt.)*
21–50	2.0
51–100	3.0
101–150	4.5
151–200	6.0
201–250	7.0
251–300	8.0
301–350	9.0
351 and over	9.5

(f) *Use of equivalent prices in formulas.* If for any reason a price for any milk product specified by this order for use in computing class prices and for other purposes is not reported or published in the manner described by the order, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price which is specified.

(g) *Announcement of Class I price.* The market administrator shall publicly announce the Class I price for each month, as computed under paragraph (a) of this section, on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday, he shall announce the Class I price on the next succeeding work day.

§ 934.7 *Composite prices to producers*—(a) *Computation of value of milk.* The value of the milk received from producers during the month by each handler shall be computed by the market administrator in the following manner:

(1) Multiply the quantity of such milk in each class by the price applicable in accordance with § 934.6.

(2) Add together the resulting value of each class.

(b) *Computation of composite price.* The composite price payable pursuant to § 934.8 by each handler to producers for milk received from them during the month shall be computed by the market administrator in the following manner:

(1) Add to the total value computed in accordance with paragraph (a) of this section the amount of the differential applicable in accordance with § 934.8 (d).

(2) Subtract any amount which the handler is required to pay on the milk under the provisions of the Boston order because it represents outside milk as defined in § 904.1 (d) (6) (iii) of this chapter.

(3) Divide the remaining value by the total quantity of milk received by the handler from producers. The result is the handler's composite price for milk, containing 3.7 percent butterfat, which he received from producers at his city plant.

(c) *Announcement of composite prices.* For each month, the market administrator shall mail to all handlers who receive milk from producers and shall publicly announce prices resulting from the computations pursuant to paragraphs (a) and (b) of this section, and other related information, as follows:

(1) On or before the 12th day of the succeeding month, he shall announce the

composite price, the Class II price, and the butterfat differential.

(2) On or before the last day of the succeeding month, he shall announce the total quantity and value of Class I milk and Class II milk included in such computations.

§ 934.8 *Payments to producers*—(a) *Time and method of payments.* On or before the 18th day after the end of each month, each handler shall make payment, subject to the differentials set forth in this section, for the total value of milk received by him from producers during such month, as computed in accordance with § 934.7 (a) as follows:

(1) To each producer, except as provided in subparagraph (2) of this paragraph, at not less than the composite price per hundredweight computed for such handler pursuant to § 934.7 (b).

(2) To producers who are members of an association of producers, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers under subparagraph (1) of this paragraph.

(b) *Correction of errors in payments.* Errors in making any of the payments required by this section shall be corrected not later than the date for making payments next following the determination of such errors. Any correction affecting all producers delivering to any handler during the month in which such error occurred shall be corrected as the market administrator shall determine to be equitable, either by

(1) Adjustment of the account of each individual producer who delivered during such month, on the basis of a recomputation of the price of such handler, or

(2) Addition or subtraction of the amount of such correction to or from the value of all milk received by such handler in the month during which such error was determined, computed as set forth in § 934.7 (a).

(c) *Butterfat differential.* Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows:

(1) Divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, subtract 1.5 cents, and divide the result by 10.

(2) If the cream price described in subparagraph (1) of this paragraph is not reported for such period, multiply by 1.4 the average price reported for that period by the United States Department of Agriculture for U. S. Grade A (U. S. 92-score) butter at wholesale in the Chicago market, subtract 1.5 cents, and divide the result by 10.

(d) *Country plant differentials.* (1) With respect to milk delivered by producers to a country plant located within 40 miles of the City Hall in Lowell or Lawrence, the payments to be made by handlers pursuant to paragraph (a) of this section shall be subject to a deduction of 17 cents per hundredweight.

(2) With respect to milk delivered by producers to a country plant located beyond 40 miles of the City Halls in Lowell and Lawrence, the payments to be made by handlers pursuant to paragraph (a) of this section shall be subject to a deduction per hundredweight equal to the sum of 13 cents and the average of the freight rates from the railroad shipping point for the handler's plant to Lowell and to Lawrence, calculated according to the lowest applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans.

(e) *Statement to producers.* In making the payments required by this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a), (c), and (d) of this section;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under § 934.9, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 934.9 *Marketing services*—(a) *Marketing service deduction.* In making payments to producers pursuant to § 934.8, each handler shall, with respect to all milk delivered by each producer during each month, except as set forth in paragraph (b) of this section, deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, and shall, on or before the 18th day after the end of each month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

(b) *Marketing service deductions with respect to members of a producers' cooperative association.* In the case of producers who are members of an association of producers which is actually performing the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from payments made pursuant to § 934.8 as may be authorized by such producers and pay over, on or before the 18th day after the end of each month, such deduction to such associations.

§ 934.10 *Expense of administration.* Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this order. The payment shall be at the rate of 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe. For each month, the payment shall apply to the handler's receipts of milk from producers, including receipts from his own production, and the Class II milk, other than cream, which is received by him at a regulated plant from an unregulated plant. However no payment shall apply on his receipts from any plant at which the handling of milk is regulated under the Boston or New York orders.

§ 934.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions of this order, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* The Secretary may suspend or terminate this order whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this order, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this order, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 934.12 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this order.

§ 934.13 *Termination of obligation.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action insti-

tuted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

Issued at Washington, D. C., this 31st day of March 1949 to be effective on and after the 1st day of April 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2414; Filed, Mar. 31, 1949; 8:52 a. m.]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES IN CALIFORNIA

DETERMINATION WITH RESPECT TO AMENDED MARKETING AGREEMENT AND ORDER REGULATING HANDLING; REVOCATION

Notice was published in the FEDERAL REGISTER issue (13 F. R. 6707) of November 16, 1948, that consideration was being given to the following proposal which was submitted by the Control Committee and the Plum Commodity Committee, established under the marketing agreement, as amended, and Order No. 36, as amended (7 CFR, Cum. Supp., Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California: "Commencing with the marketing season beginning April 1, 1949, the determination of May 6, 1947 (7 CFR and Supps. 936.301; 12 F. R. 3059) shall not be applicable to shipments of plums into, in, or through the San Francisco-Sacramento region and the Los Angeles region."

This regulatory program is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. and Sup. I 601 et seq.).

The aforesaid notice afforded opportunity to all parties to submit written data, views, or arguments with respect to such proposal. No written data, views, or arguments were received.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found and determined that on and after the effective time hereof, the aforesaid determination of May 6, 1947, should not be applicable to every shipment into, in, or through the San Francisco-Sacramento region and the Los Angeles region.

It is, therefore, ordered, That the determination (7 CFR and Supps. 936.301; 12 F. R. 3059), issued May 6, 1947, shall be, and same is, hereby revoked.

The provisions hereof shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 28th day of March 1949.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 49-2412; Filed, Mar. 31, 1949; 8:51 a. m.]

PART 942—MILK IN NEW ORLEANS, LA., MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 942.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the previous findings and determinations made in connection with the issuance of this order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq.), a public hearing was held on February 23-25, 1949, upon a proposed marketing agreement and certain proposed amendments to the order, as amended, regulating the handling of milk in the New Orleans, Louisiana, marketing area. The decision was made by the Secretary on March 15, 1949. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to secs. 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect the market supply of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will for the period indicated reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make the amendment hereafter set forth effective by not later than April 1, 1949, so as to reflect current marketing conditions. Any delay beyond April 1, 1949, in the effective date of this amendment to the order, as amended, will seriously threaten the supply of milk for the New Orleans, Louisiana, marketing area. The changes effected by this order amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. Accordingly it is concluded that good cause exists for making this amendment effective within less than 30 days after the date of publication (sec. 4 (c), Administrative Procedures Act, Pub. Law 404, 79th Congress, 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by this order, as amended and as hereby further amended, which is marketed within the New Orleans, Louisiana, marketing area, refused or failed to sign the proposed marketing agreement regu-

lating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, further amending the aforesaid order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (January 1949), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the New Orleans, Louisiana, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

Delete that part of § 942.5 (b) (1) (i) following the colon (:) and substitute therefor the following: *"Provided,* That for the period from the effective date hereof to and including August 1949 the price for Class I milk shall be $5.56 per hundredweight."

(48 Stat. 31, 670, 675, 49 Stat. 750, 50 Stat. 246; 7 U. S. C., 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of March 1949, to be effective on and after the 1st day of April 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2417; Filed, Mar. 31, 1949; 8:52 a. m.]

PART 947—MILK IN THE FALL RIVER, MASS., MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

§ 947.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps. 900.1 et seq.), a public hearing was held on February 2, 1949, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Fall River, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearings and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions of said order, as amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

(b) *Additional findings.* (1) It is hereby found that a pro rata assessment of handlers on the basis and at the rates set forth in § 947.10, as amended, and as hereby further amended will provide the funds necessary for the maintenance and functions of the market administrator in the administration of this order and such assessment is approved.

(2) It is necessary to make the present amendment to the said order, as amended, effective not later than April 1, 1949 to reflect current marketing conditions. Any further delay in the effective date of this order, amending the said order, as amended, will seriously disrupt the orderly marketing of milk for the Fall River, Massachusetts, marketing area. The changes effected by this order, amending the order, as amended, do not require of persons affected substantial or extensive preparation prior to the effective date. In view of the foregoing it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended, and as hereby further amended) of more than 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the Fall River, Massachusetts, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the Fall River, Massachusetts, marketing area, and it is hereby further determined that:

(1) The refusal of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order further amending the order, as amended, is the only practicable means pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the Fall River, Massachusetts, marketing area;

(3) The issuance of this order further amending the order, as amended, is approved or favored by at least two-thirds of the producers, who during the determined representative period (September 1948) were engaged in the production of milk for sale in the Fall River, Massachusetts, marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Fall River, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended; and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. In § 947.1, add:

(q) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(r) "Milk drinks" means flavored milk, skim milk, flavored skim milk, cultured skim milk, and buttermilk, either individually or collectively.

2. Delete § 947.1 (j) and substitute:

(j) "Producer-handler" means a producer who is also a handler who receives no milk from producers and who during the delivery period disposes of no more than 1,000 pounds on a daily average of milk and milk drinks other than in bulk to another handler or producer-handler: *Provided,* That such handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care, and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging, and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such producer in his capacity as a handler.

3. In § 947.1, delete paragraph (m) and substitute:

(m) "Other source milk" means all milk and milk products received by a handler which is not producer milk, milk delivered by dairy farmers designated for other markets, or milk and milk drinks from a Federal order plant.

4. Delete § 947.3 (a) (1), (2), (3), and (4) and substitute therefor:

(a) *Submission of reports.* Each handler shall report to the market administrator in the form and detail prescribed by the market administrator, as follows:

(1) On or before the 8th day after the end of each delivery period, the receipts of milk and milk products at each plant from producers, from other handlers, from such handler's own production, from any other sources during the delivery period, and inventories on hand at the beginning and end of each such delivery period;

(2) On or before the 8th day after the end of each delivery period, the respective quantities of milk and milk products which were sold, distributed, or disposed of, including sales or deliveries to other handlers during the delivery period, for the several purposes and classifications as set forth in § 947.5;

(3) On or before the 20th day of each delivery period each handler shall report to the market administrator the receipts of milk from producers received during the first 15 days of such delivery period showing for each producer:

(i) The daily and total receipts of milk;

(ii) The average butterfat test thereof; and

(iii) The current post office address and farm location of producers for whom information has not been previously reported.

(4) On or before the 8th day after the end of each delivery period each handler shall report to the market administrator his receipts of milk from producers received during the period from the 16th through the last day of the delivery period showing for each producer:

(i) The daily and total receipts of milk;

(ii) The average butterfat test thereof; and

(iii) The current post office address and farm location of producers for whom information has not been previously reported.

(5) On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator his producer records for such delivery period which shall show for each producer:

(i) The total pounds of milk delivered and the average butterfat test thereof; and

(ii) The net amount of such handler's payments to each producer and each cooperative association made pursuant to § 947.8 together with the prices, deductions and charges involved.

5. In § 947.3 (a) renumber subparagraphs (5), (6), and (7) as (6), (7), and (8); in subparagraph (7) as renumbered change the reference to subparagraph "(5)" to read subparagraph "(6)", and in subparagraph (8) as renumbered delete the term "7th" and substitute "8th."

6. In § 947.7 (c) delete the term "11th" and substitute "12th."

7. In § 947.9 (a) delete the term "15th" and substitute the term "17th."

8. In § 947.9 (b) after the words "and pay an equivalent amount" insert the words "on or before the 20th day after the end of the delivery period."

9. In § 947.3, add:

(d) *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements and disposition of milk and milk products during the delivery period and the quantities of milk and milk products on hand at the end of the delivery period.

10. Delete § 947.5 (a) and (b) and substitute:

(a) *Responsibility of handlers.* In establishing the classification of milk and milk products received by a handler the burden rests upon the handler who received milk from producers to account for all milk and milk products received at each plant at which milk is received from producers, and to prove that such milk and milk products should not be classified as Class I. The burden rests upon the handler who distributes milk and milk drinks in the marketing area to establish the source of all milk and milk products received.

(b) *Classes of utilization.* The classes of utilization of milk and milk products shall be as follows subject to paragraphs (c) and (d) of this section:

(1) Class I milk shall be all milk and milk products the utilization of which is not established as Class II milk.

(2) Class II milk shall be all milk and milk products the utilization of which is accounted for as:

(i) Sold, distributed, or disposed of other than as milk which contains one-half of 1 percent or more but less than 16 percent of butterfat, and other than as chocolate or flavored whole or skim milk, buttermilk, or cultured skim milk, for human consumption; and

(ii) Actual plant shrinkage not in excess of 2 percent of milk and milk drinks received from all sources including the handler's own production but not including receipts from other handlers who receive milk from producers or milk and milk products received completely processed and packaged from a Federal order plant.

11. Revise the title of § 947.5 (c) to read as follows:

(c) *"Transfers of milk and milk drinks from a plant at which milk is received from producers."*

and delete subparagraph (3) under that title and substitute:

(3) Transfers to a plant, other than a handler's plant at which milk is received from producers or a Federal order plant, shall be Class I not to exceed the total Class I at such plant during the delivery period.

12. Delete § 947.5 (d) through subparagraph (6) and substitute:

(d) *Classification of milk and milk products received at plants at which milk is received from producers.* For each delivery period each handler shall report the classification of milk and milk products which were received at plants at which milk is received from producers by making computations in the order indicated as follows:

(1) Determine the pounds of milk and milk products received at all plants of the handler at which milk is received from producers:

(i) From producers, including own production,

(ii) From dairy farmers designated for other markets,

(iii) In the form of milk products received completely processed and packaged from a Federal order plant,

(iv) In the form of bulk milk and milk drinks received from another Federal order plant,

(v) From other handlers who receive milk from producers, and

(vi) From other sources, and the total.

(2) Determine the total pounds of milk and milk products utilized in Class II products including allowable plant shrinkage as provided in paragraph (b) (2) (ii) of this section.

(3) Prorate allowable plant shrinkage classified as Class II to receipts from producers, from dairy farmers designated for other markets, bulk receipts of milk and milk drinks from other Federal order plants, and milk and milk drinks from other source milk, and deduct such plant shrinkage from total Class II computed pursuant to subparagraph (2) of this paragraph.

(4) Classify remaining other source milk and milk products as Class II in an amount no greater than the amount of the Class II remaining.

(5) From the remaining pounds in each class deduct:

(i) The quantity of milk and milk products received from other handlers who receive milk from producers which is classified according to paragraph (c) (2) of this section, and

(ii) Milk and milk products received completely processed and packaged from a Federal order plant classified according to the actual use established.

(6) Prorate remaining Class II to receipts of milk and milk drinks from producers, from dairy farmers designated for other markets and bulk receipts from Federal order plants: *Provided*, That receipts from producers classified as Class II inclusive of plant shrinkage shall not exceed 5 percent of the total quantity received from producers, in any delivery period except April, May and June.

13. Delete § 947.6 (b) and substitute:

(b) *Class II prices.* (1) Each handler shall pay producers or cooperative associations for their milk in the manner set forth in § 947.8 and subject to subparagraph (2) of this paragraph not less than the price per hundredweight, for milk containing 3.7 percent butterfat, calculated for each delivery period as follows:

(i) Divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered and multiply the result by 3.7.

(ii) Using the midpoint in any range as one price, compute the average of the

prices per pound of roller process nonfat dry milk solids suitable for human consumption, in barrels, in carlots, as published during the month by the United States Department of Agriculture for New York City, subtract one-half cent, and multiply the remainder by 7.5.

(iii) Add the results obtained in subdivisions (i) and (ii) of this subparagraph, and from the sum subtract the amount shown below for the applicable month.

Month	*Amount*
January and February	57.5
March and April	69.5
May and June	75.5
July	69.5
August and September	63.5
October, November and December	57.5

(2) For milk delivered to a handler from producers' farms at a plant for which the railroad freight mileage distance from the shipping point for such plant to Fall River is 101 miles or more, the price shall be the amount computed pursuant to subparagraph (1) of this paragraph less the applicable amount set forth in Column B of the following table:

DIFFERENTIALS FOR THE DETERMINATION OF CLASS II ZONE PRICES

A	B
Zone (railroad miles from Fall River)	*Differential (cents per hundredweight)*
0–100	No differential
101–150	2.5
151–200	3.5
201–250	5.0
251–300	6.5
301–350	7.5
351–400	8.5
401 and over	9.0

14. Delete § 947.10 and substitute:

§ 947.10 *Expense of administration*—(a) *Payments by handlers.* As his pro rata share of the expense of administration hereof, each handler not a producer-handler shall, on or before the 17th day after the end of each delivery period, pay to the market administrator 5 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe with respect to all milk and milk drinks received during such delivery period at a plant or plants described in subparagraphs (1) and (2) of this paragraph except milk and milk drinks received from other plants of the type described in subparagraphs (1) and (2) of this paragraph: *Provided,* That such handler, which is a cooperative association, shall pay such pro rata share of expense of administration on such milk which it causes to be delivered by member producers to a handler's plant for the marketing area and for which milk such cooperative association collects payment: *And provided further,* That the rate of payment shall be 3 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe with respect to milk and milk drinks assessed for the cost of administration of another Federal order:

(1) A plant at which milk is received from producers.

(2) A plant from which Class I milk is disposed of in the marketing area to persons other than handlers.

(48 Stat. 31, as amended; 7 U. S. C. 601 et sec.; sec. 102, Reorg. Plan 2 of 1947, 12 F. R. 4534)

Issued at Washington, D. C. this 28th day of March 1949 to be effective on and after the 1st day of April 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49–2413; Filed, Mar. 31, 1949; 8:52 a. m.]

PART 975—MILK IN CLEVELAND, OHIO, MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISIONS

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et sec.), hereinafter referred to as the "act," and of the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area, hereinafter referred to as the "order," it is hereby found and determined that:

(a) The provisions of the order as set forth in the first proviso contained in § 975.6 (d) (2) which read "bulk condensed skim milk or whole milk (sweetened or unsweetened)," do not tend to effectuate the declared policy of the act.

(b) In accordance with the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237), notice of proposed rule making, public procedure thereon, and 30 days prior notice of the effective date hereof are found to be impracticable, unnecessary, and contrary to the public interest in that it is necessary to issue immediately and make effective not later than April 1, 1949, this suspension order to reflect current marketing conditions, and to facilitate, promote, and maintain the orderly marketing of milk produced for the Cleveland, Ohio, marketing area. The price formula applicable to the above specified milk products was considered at a public hearing held March 15–18, 1949, notice of which was published in the FEDERAL REGISTER (14 F. R. 1130). The changes effected by this suspension order do not require of persons affected substantial or extensive preparation prior to the effective date. The time intervening between the date of issuance of this suspension and its effective date affords persons affected a reasonable time to prepare for its effective date.

It is therefore ordered, That the provisions of the order appearing in § 975.6 (d) (2) which read "bulk condensed skim milk or whole milk (sweetened or unsweetened)," be and hereby are suspended effective at 12:01 a. m., e. s. t., April 1, 1949.

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq.)

Done at Washington, D. C. this 28th day of March 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49–2416; Filed, Mar. 31, 1949; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 1–4]

PART 1—AIRWORTHINESS CERTIFICATES

DELETION OF ACCIDENT REPORTING REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of March 1949.

Section 1.3 *Accidents,* of Part 1 currently contains rules for the reporting of aircraft accidents. In view of the fact that these rules have been clarified and expanded in Part 62, adopted this date, § 1.3 should be deleted.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 1 of the Civil Air Regulations (14 CFR, Part 1) effective May 1, 1949, by deleting therefrom § 1.3.

(Secs. 205 (a), 702 (a); 52 Stat. 984, 1013; 49 U. S. C. 425 (a), 582)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49–2432; Filed, Mar. 31, 1949; 8:46 a. m.]

[Civil Air Regs., Amdt. 60–4]

PART 60—AIR TRAFFIC RULES

MISCELLANEOUS AMENDMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 28th day of March 1949.

On April 15, 1948, the International Civil Aviation Organization (ICAO) adopted Annex 2, "Rules of the Air," as an international standard as provided in the Convention on International Civil Aviation. Adoption of this document was submitted to vote of the member states on the ICAO Council and was favored by more than the required two-thirds of such states. It was then submitted for the consideration of each of the member states of ICAO, none of whom signified disapproval of the document. Thus, by the terms of the Convention, Annex 2 came into force as an international standard on January 1, 1949.

In general, international standards set forth in ICAO Annex 2 are comparable to those of the Civil Air Regulations. However, there are a few provisions in Annex 2 which are not currently included in Part 60 which are found to be desirable for inclusion therein. Certain other provisions of Annex 2 were not deemed appropriate for adoption by the Board, and we have advised ICAO of our intention not to include such provisions in the Civil Air Regulations. Public notice of the differences in the Civil Air Regulations from Annex 2 has been given in the FEDERAL REGISTER. However, it will be noted that compliance with the

provisions of Part 60 for operation of all aircraft except helicopters will constitute full compliance with the requirements of Annex 2.

This amendment of Part 60 includes the following changes:

1. The part is amended to make ICAO Annex 2 enforceable with respect to flights over the high seas, and a note is added advising the aviation public that in accordance with the provisions of Article 12 of the Convention on International Civil Aviation each contracting state has undertaken to make its regulations conform to the greatest possible extent to the ICAO provisions. Therefore, it may be expected that the provisions of Annex 2 will be generally applicable to flight over the territory of member states.

2. It is also considered desirable to add a note to Part 60 which will inform the aviation public that the international visual distress and urgency signals are contained in the CAA Flight Information Manual.

3. A third change is an amendment of § 60.301 adding a new paragraph which will require an IFR flight plan for international flights to give the number of persons on board.

4. Another change in Part 60 is an amendment of the current definition of "approach time" and a substitution therefor of the Annex 2 definition of "expected approach time." This amendment requires an editorial change in § 60.308 (b) where the term "expected approach time" is substituted for the current "approach time." The Annex 2 definition is a more logical one for the purpose for which it is used than the current term in the Civil Air Regulations.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends this part of the Civil Air Regulations (14 CFR, Part 60, as amended), effective May 5, 1949.

1. By adding new § 60.001 to read as follows:

§ 60.001 *Operation over the high seas.* Aircraft of United States registry operated in air commerce shall while over the high seas comply with the provisions of Annex 2 (Rules of the Air) to the Convention on International Civil Aviation.

NOTE: An airman who complies fully with Part 60 while over the high seas will also be in compliance with Annex 2. Under Article 12 of the Convention on International Civil Aviation, the member states undertake to make their regulations conform to the greatest possible extent to the ICAO Annexes. It may therefore be expected that the provisions of Annex 2 will be generally applicable to flight over the territory of member states of the International Civil Aviation Organization.

2. By adding a note under § 60.113 to read as follows:

NOTE: International visual distress and urgency signals are contained in the CAA Flight Information Manual for sale by the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

3. By adding a new paragraph (n) to § 60.301 to read as follows:

(n) For international flights: The number of persons on board.

4. By amending paragraph (b) of § 60.308 to read as follows:

(b) Proceed according to the latest air traffic clearance to the radio facility serving the airport of intended landing, maintaining the minimum safe altitude or the last acknowledged assigned altitude whichever is higher. Descent shall start at the expected approach time last authorized or, if not received and acknowledged, at the estimated time of arrival indicated by the elapsed time specified in the flight plan.

5. By amending § 60.910 to read as follows:

§ 60.910 *Expected approach time.* The time at which it is expected that an arriving aircraft will be cleared to commence approach for a landing.

(Secs. 205 (a), 601, 52 Stat. 984, 1007; 49 U. S. C. 425 (a), 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2433; Filed, Mar. 31, 1949; 8:46 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 15]

PART 600—DESIGNATION OF CIVIL AIRWAYS

RED CIVIL AIRWAY NO. 30

It appearing that (1) the increased volume of air traffic between certain points necessitates, in the interest of safety in air commerce, the immediate realignment of a civil airway between such points; (2) the realignment of the civil airway referred to in (1) above, has been coordinated with the civil operators involved, the Army, and the Navy, through the Air Coordinating Committee, Airspace Subcommittee; and (3) compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable, unnecessary, and contrary to the public interest, and therefore is not required;

Now therefore, acting under authority contained in sections 205, 301, 302, 307, and 308 of the Civil Aeronautics Act of 1938, as amended, and pursuant to section 3 of the Administrative Procedure Act, I hereby amend the Code of Federal Regulations, Title 14, Chapter II, Part 600, as follows:

1. Section 600.4 (c) (30) is amended to read:

(30) *Red civil airway No. 30 (Shreveport, La., to Jacksonville, Fla.)* From the Shreveport, La., radio range station via the intersection of the south course of the Shreveport, La., radio range and the northwest course of the Alexandria, La., radio range; Alexandria, La., radio range station; intersection of the southeast course of the Alexandria, La., radio range and the northwest course of the Baton Rouge, La., radio range; Baton Rouge, La., radio range station to the intersection of the southeast course of the Baton Rouge, La., radio range and the west course of the New Orleans, La., radio range. From the intersection of the northeast course of the Mobile, Ala., radio range and the west course of the Crestview, Fla., radio range via the Crestview, Fla., radio range station; the intersection of the east course of the Crestview, Fla., radio range and the northwest course of the Tallahassee, Fla., radio range; the Tallahassee, Fla., radio range station to the Jacksonville, Fla., radio range station.

(Secs. 205, 301, 302, 307, 308; 52 Stat. 984, 985, 986; 54 Stat. 1233, 1235; Pub. Law 872, 80th Cong., Ch. 792, 2d Sess.; 49 U. S. C., 425, 451, 452, 457, 458)

This amendment shall become effective 0001 e. s. t., April 1, 1949.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 49-2442; Filed, Mar. 31, 1949; 8:48 a. m.]

[Amdt. 20]

PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

MISCELLANEOUS AMENDMENTS

It appearing that (1) the increased volume of air traffic between certain points necessitates, in the interest of safety in air commerce, the immediate redesignation and establishment of control zones; (2) the redesignation and establishment of the control zones referred to in (1) above have been coordinated with the civil operators involved, the Army and the Navy, through the Air Coordinating Committee, Airspace Subcommittee; and (3) compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable, unnecessary, and contrary to public interest, and therefore is not required;

Now therefore, acting under authority contained in sections 205, 301, 302, 307 and 308 of the Civil Aeronautics Act of 1938, as amended, and pursuant to section 3 of the Administrative Procedure Act, I hereby amend the Code of Federal Regulations, Title 14, Chapter II, Part 601, as follows:

Designation and Redesignation of Control Zones

1. Section 601.8 (b) is amended by deleting the following airport:

Kenai, Alaska: Kenai Airport.

2. Section 601.8 (c) (252) is added to read:

(252) *Fairbanks, Alaska control zone.* Within a 5 mile radius of the Eielson Air Base, Fairbanks, Alaska, extending 2 miles either side of the east and north courses of the Eielson radio range to Amber Civil Airway No. 2.

3. Section 601.8 (c) (253) is added to read:

(253) *Kenai, Alaska control zone.* Within a 5 mile radius of the Kenai Airport extending 2 miles either side of the southeast course of the Kenai radio range to Green Civil Airway No. 8.

(Sec. 205, 301, 302, 307, 308; 52 Stat. 984, 985, 986; 54 Stat. 1233, 1235; Pub. Law 872, 80th Cong., ch. 792, 2d Sess.; 49 U. S. C., 425, 451, 452, 457, 458)

This amendment shall become effective 0001 e. s. t., April 1, 1949.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 49-2443; Filed, Mar. 31, 1949; 8:48 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

REGISTRATION OF UNISSUED SECURITIES FOR "WHEN ISSUED" DEALING

The Securities and Exchange Commission is amending its § 240.12d3-10 (Rule X-12D3-10) under the Securities Exchange Act of 1934 along the lines of a proposal published on March 10, 1949. Prior to this amendment, Rule X-12D3-10 provided for the registration for "when-issued" trading on a national securities exchange of securities to be issued in railroad reorganizations. The purpose of the amendment is to expand the coverage of the rule so that it will no longer be limited to securities issued in railroad reorganizations but will extend generally to securities (other than warrants) to be issued in other types of reorganizations, provided that the reorganization is carried out with court approval or under compulsion of a court order.

As a result of the comments which it received, the Commission is making one change in the rule in addition to those proposed. Where the security in question is to be issued upon exercise of a warrant, paragraph (a) (4) of the rule now requires that such warrant expire within 90 days after issuance. This limitation has been of little or no practical importance with respect to subscription rights issued to security holders as a class, since such rights normally have a life of much less than 90 days. On the other hand, the language of the provision has raised interpretative problems in some situations to which it was not originally intended to apply. The Commission is therefore eliminating the present paragraph (a) (4) from the rule, and clauses (5), (6) and (7) of paragraph (a) are being renumbered. The Commission finds that no further public notice is necessary regarding the amendment of this portion of the rule.

The Commission amends Rule X-12D3-10 to read as set forth below, finding that such amendment is necessary and appropriate in the public interest and for the protection of investors and necessary to carry out the provisions of the act. This action is taken pursuant to the provisions of Securities Exchange Act of 1934, particularly sections 12 (d) and 23 (a).

§ 240.12d3-10 *Registration of an unissued security, other than a warrant, to be issued under a plan of reorganization pursuant to court order.* (a) Notwithstanding the provisions of § 240.12d3-4, an unissued security, other than a warrant, to be issued under a plan of reorganization in compliance with an order of a court of competent jurisdiction may be registered for "when issued" dealing on a national securities exchange: *Provided that:*

(1) The reorganization managers, company, or other person entrusted with the duty of consummating the plan of reorganization has filed a written statement with such exchange (and a duplicate signed original with the Commission) advising:

(i) That the plan of reorganization has been finally approved or required to be put into effect (or, in the case of a proceeding under the Bankruptcy Act, has been finally confirmed) by order of the court in which the proceeding is pending; and, if there has been substantial opposition to such order, that the time during which an appeal may be taken from such order has expired; and that no appeal is pending; and, if under the terms of the plan security holders' authorization is required, that such authorization has been obtained; and

(ii) If such unissued security is not already in the process of admission to dealing on such exchange or on another exchange in the same city, that application will be made for its listing and registration pursuant to section 12 (b) and (c) of the act on one of such exchanges prior to the date when such unissued security is made available for delivery.

(2) Such unissued security is the subject of a right to subscribe to or otherwise acquire such unissued security granted to the holders of a security which is admitted to dealing on a national securities exchange.

(3) A registration statement under the Securities Act of 1933, as amended, is in effect as to such unissued security, if such registration is required.

(4) A copy of the court order, certified by the clerk of the court, has been filed with such exchange and with the Commission as exhibit "A" to Form 2-J (17 CFR 249.232) and, if there are any terms of the reorganization not specified in detail in such order, such terms have been formally and officially announced by the person entrusted with the duty of consummating the plan of reorganization and filed with the exchange and the Commission as a part of said Exhibit "A".

(5) The members of the certifying exchange are subject to rules which provide substantially that the performance of a contract to purchase or sell an unissued security shall be conditioned upon the issuance of such security.

(6) No application has been filed for "when issued" dealing in such unissued security on another national securities exchange in the same city on which other exchange such unissued security is to be listed and registered upon issuance.

(b) Notwithstanding the provisions of § 240.12d3-5 (a), Form 2-J may be filed by the person entrusted with the duty of consummating the plan of reorganization.

(c) Notwithstanding the provisions of § 240.12d3-6 (d), registration of an unissued security for "when issued" dealing pursuant to paragraphs (a) and (b) of this section shall expire at the close of business on the one hundred and twentieth day after the effective date of such registration or at the close of business on the fifteenth full business day after the date when such unissued security is made available for delivery, whichever date is earlier, unless the Commission shall order an extension of the effective period of such registration.

In connection with section 4 (c) of the Administrative Procedure Act, the Commission finds that the amendment to § 240.12d3-10 operates to relieve restriction. The amendment to the rule shall be effective immediately.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

MARCH 24, 1949.

[F. R. Doc. 49-2409; Filed, Mar. 31, 1949; 8:50 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Veterans' Preference Reg., as Amended April 1, 1949]

PART 801—VETERANS' PREFERENCE REGULATION UNDER HOUSING AND RENT ACT OF 1947 AS AMENDED

PURPOSE

Sec.
801.1 What this section does.

DEFINITIONS

801.2 Definitions.

PREFERENCE PERIODS

801.3 Veterans' preference in sale of housing accommodations.
801.4 Veterans' preference in renting of housing accommodations.
801.5 Alternative veterans' preference period for projects of several dwellings.

PUBLIC OFFERING

801.6 Public offering in good faith.

MISCELLANEOUS

801.7 Violations and enforcement.
801.8 Exceptions.
801.9 Appeals.

AUTHORITY: §§ 801.1 to 801.9 issued under Pub. Laws 129, 422, 464, 80th Cong.; Housing and Rent Act of 1949.

PURPOSE

§ 801.1 *What this part does.* This part (Veterans' Preference Regulation) explains the preference given to veterans of World War II and their families by the Housing and Rent Act of 1947, as amended, in the sale or renting of housing accommodations completed after June 30, 1947, and prior to June 30, 1950.

DEFINITIONS

§ 801.2 *Definitions.* As used in this part:

(a) The terms "veterans of World War II or their families," "veterans or their families," and "veterans" shall mean:

(1) A person who has served in the active military or naval forces of the United States on or after September 16, 1940, and who has been discharged or released therefrom under conditions other than dishonorable;

(2) The spouse of a veteran (as described in the preceding subparagraph) who died after being discharged or released from service, if the spouse has not remarried and is living with a child or children of the deceased veteran;

(3) A person who is serving in the active military or naval forces of the United States requiring housing accommodations for his dependent family;

(4) The spouse of a person who served in the active military or naval forces of the United States on or after September 16, 1940, and who died in service, if the spouse has not remarried and is living with a child or children of the deceased;

(5) A citizen of the United States who served in the armed forces of an allied nation during World War II (and who has been discharged or released therefrom under conditions other than dishonorable) requiring housing accommodations for his dependent family;

(6) A person to whom the War Shipping Administration has issued a certificate of continuous service in the United States Merchant Marine who requires housing accommodations for his dependent family; and

(7) A citizen of the United States who, as a civilian, was interned or held a prisoner of war by an enemy nation at any time during World War II, requiring housing accommodations for his dependent family.

(b) The term "nonveterans" shall mean persons other than veterans of World War II or their families.

(c) The term "person" shall include an individual, corporation, partnership, association, or any other organized group of persons, or a representative of any of the foregoing.

(d) The time at which construction, conversion or erection of housing accommodations shall be deemed to be "completed" shall be the date on which the dwelling is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(e) The term "housing accommodations" shall include, without limitation, any building, structure, or part thereof, or land appurtenant thereto, or any real or personal property, designed, constructed, or converted for dwelling or residential purposes, together with all privileges, services, or facilities in connection therewith; industrially made or prefabricated houses, sections, panels, or their aggregate as a "package", designed or constructed for dwelling or residential purposes; and a certificate, deposit, membership, stock interest, or undivided interest in real estate, under a cooperative mutual ownership or similar plan, which carries with it the right of occupancy of individual dwelling units.

(f) The term "housing accommodations designed for occupancy by other than transients" shall not include housing accommodations which:

(1) In a particular community are customarily rented for a term of occupancy of six days or less, or

(2) Are rented and usable only on a seasonal basis.

PREFERENCE PERIODS

§ 801.3 *Veterans' preference in sale of housing accommodations.* In order to assure preference or priority to veterans of World War II or their families in the sale of housing accommodations designed for a single family residence, the manufacture, prefabrication, construction, conversion or erection of which is completed after June 30, 1947 and prior to June 30, 1950, the following rules must be observed:

(a) *30-day veterans' preference period after manufacture or prefabrication and prior to erection.* No manufacturer, dealer or other person shall offer for sale, sell or otherwise dispose of industrially made or prefabricated houses, sections, panels, or their aggregate as a "package", designed or constructed for dwelling or residential purposes, to any person for occupancy by nonveterans unless such housing accommodations have first been offered for sale for at least thirty days exclusively for occupancy by veterans or their families.

(b) *30-day veterans' preference period after construction, conversion or erection.* No person shall offer for sale, sell or otherwise dispose of such housing accommodations to any person for occupancy by nonveterans unless such housing accommodations have first been publicly offered for sale exclusively for occupancy by veterans or their families (1) during the period of construction, conversion or erection and for at least thirty days thereafter, and (2) for a period of at least seven days in any resale or other subsequent disposition.

No person shall purchase or otherwise acquire such housing accommodations during either of the exclusive veterans' preference offering periods set forth in paragraphs (a) and (b) of this section, unless such purchase or other acquisition is made in good faith for occupancy, during the time that this part remains in effect, by veterans or their families.

(c) *7-day offer at a price in first and subsequent sales.* No person shall offer for sale or resale, sell or resell such housing accommodations to any person for occupancy by nonveterans at a price less than the price at which the accommodations have last been publicly offered for sale for at least seven days exclusively for occupancy by veterans or their families: *Provided, however,* That in no event shall the exclusive public offering period for occupancy by veterans or their families total less than thirty days in any first or original sale as required by paragraphs (a) and (b) of this section.

No person shall purchase such housing accommodations for occupancy by nonveterans at a price less than the price at which the accommodations have last been publicly offered for at least seven days exclusively for occupancy by veterans or their families.

§ 801.4 *Veterans' preference in renting of housing accommodations.* In order to assure preference or priority to veterans of World War II or their families in the renting of housing accommodations designed for occupancy by other than transients, the manufacture, prefabrication, construction, conversion or erection of which is completed after June 30, 1947 and prior to June 30, 1950 the following rules must be observed:

(a) *30-day veterans' preference period after manufacture or prefabrication and prior to erection.* No manufacturer, dealer or other person shall offer for rent, rent or otherwise dispose of industrially made or prefabricated houses, sections, panels or their aggregate as a "package," designed or constructed for dwelling or residential purposes, to any person for occupancy by nonveterans unless such housing accommodations have first been offered for rent for at least thirty days exclusively for occupancy by veterans or their families.

(b) *30-day veterans' preference period after construction, conversion or erection.* No person shall offer for rent, rent or otherwise dispose of such housing accommodations to any person for occupancy by nonveterans unless such housing accommodations have first been publicly offered for rent exclusively for occupancy by veterans or their families (1) during the period of construction, conversion or erection and for at least thirty days thereafter, and (2) for a period of at least seven days in any rerenting or other subsequent disposition.

No person shall acquire by renting or otherwise acquire such housing accommodations, during either of the exclusive veterans' preference offering periods set forth in paragraphs (a) and (b) of this section, unless such acquisition by renting or other acquisition is made in good faith for occupancy, during the time that this part remains in effect, by veterans or their families.

(c) *7-day offer at a price in first and subsequent rentings.* No person shall offer for rent or rerent, rent or rerent such housing accommodations to any person for occupancy by nonveterans at a price less than the price at which the accommodations have last been publicly offered for rent for at least seven days exclusively for occupancy by veterans or their families: *Provided, however,* That in no event shall the exclusive public offering period for occupancy by veterans or their families total less than thirty days in any first or original renting as required by paragraphs (a) and (b) of this section.

No person shall acquire by renting or otherwise acquire such housing accommodations for occupancy by nonveterans at a price less than the price at which the accommodations have last been publicly offered for at least seven days exclusively for occupancy by veterans or their families.

§ 801.5 *Alternative veterans' preference period for projects of several dwellings.* Where a number of dwellings are to be constructed or erected on a certain site as one project, the period of exclusive public offering for occupancy by veterans or their families which is applicable to the first or "model" dwelling in the project may be used for any or all of the other dwelling units in the project which are substantially the same; *Provided,* That the public offering and other requirements of this part applicable to the first or "model" dwelling are applied to the other units. For this purpose, the term "construction" as used in this section means construction or erection of such first or "model" dwelling. The exclusive public offering for occupancy by veterans or their families under this section must clearly refer to all of the dwellings in the project to be covered by the public offering.

PUBLIC OFFERING

§ 801.6 *Public offering in good faith.* In order to assure preference or priority to veterans of World War II or their families, all housing accommodations covered by §§ 801.3, 801.4 and 801.5 must, for the applicable period therein set forth, be publicly offered in good faith, as provided in this section, for sale or rent exclusively for occupancy by veterans or their families.

(a) *Must give veterans reasonable opportunity.* To make a public offering in good faith, the owner must take such affirmative steps as, under the circumstances, will give notice to all veterans or a reasonably large class of veterans in the community that the accommodations are available and will give them a reasonable opportunity to negotiate for them. These affirmative steps, in addition to the posting of placards or signs and the insertion of advertisements in newspapers, as required by paragraphs (b) and (c) of this section, include at least those steps which are customary in the community for making a public offering of housing accommodations. The refusal of the owner to sell or rent to a particular veteran for personal reasons, which are in accordance with local law and customary real estate practices in the community, does not by itself necessarily constitute a violation of this public offering requirement. If, however, the owner refuses to sell or rent to veterans whom he does not know to be unqualified or unable to purchase or rent, and then sells or rents to a nonveteran, the owner has violated this part.

(b) *Posting of placards or signs.* A placard or sign must be posted in front of each housing structure, or in a conspicuous location on the site of the construction of the housing accommodations, during any exclusive public offering period for occupancy by veterans or their families. Such placard or sign must legibly contain the rent or sales price, the fact that the housing accommodations are offered for sale or rent exclusively for occupancy by veterans or their families for the prescribed period, and the name and address of the person authorized to sell or rent the housing accommodations. If the rent or sales price is reduced after the placard or sign is posted, the price on the placard or sign must be changed accordingly.

(c) *Newspaper advertisement.* All housing accommodations covered by §§ 801.3, 801.4 and 801.5 must be publicly advertised by newspaper exclusively for occupancy by veterans or their families on at least three days during the first twenty days of the thirty-day preference period required in any first or original sale or renting and on at least two days during the seven-day preference period required in any resale or rerenting. This advertisement shall be in a newspaper of general circulation in the community where the housing accommodations are located. The advertisement shall contain the same information as required for placards and signs in paragraph (b) of this section.

MISCELLANEOUS

§ 801.7 *Violations and enforcement—*(a) *General.* The veterans' preference requirements of this part shall not be evaded either directly or indirectly. It shall be unlawful for any person to effect, either as principal, broker, or agent, a sale or renting or an agreement for the sale or renting, or to solicit or attempt, offer or agree to sell or rent any housing accommodations in violation of the veterans' preference requirements of this part. It shall also be unlawful for any person to sell or rent or agree to sell or rent housing accommodations covered by §§ 801.3, 801.4 and 801.5 during the veterans' preference periods if he knows or has reason to know that the housing accommodations will not be occupied by veterans or their families, and for any purchaser or tenant to effect or agree to effect a sale or renting in violation of the veterans' preference requirements of this part.

(b) *Penalties.* Any person who wilfully violates any provision of this part or section 4 of the Housing and Rent Act of 1947, as amended, shall, upon conviction thereof, be subject to a fine of not more than $5,000 or to imprisonment for not more than one year or to both such fine and imprisonment. Any person who, in connection with this part, knowingly makes any statement to any department or agency of the United States, false in any material respect, shall upon conviction thereof be subject to fine or imprisonment, or both. Any person who violates any provision of this part may be prohibited or restrained as authorized by law.

§ 801.8 *Exceptions.* The veterans' preference requirements set forth in this part are not applicable to:

(a) Housing accommodations which are built to replace a dwelling destroyed or damaged by fire, flood, tornado, or other similar disaster;

(b) Sales of housing accommodations in the course of judicial or statutory proceedings in connection with foreclosures;

(c) The occupancy by an owner, or his building service employee, of a dwelling unit which does not exceed in floor space (1) a normal one-family unit in the structure or project, or (2) fifteen percent of the residential floor space of the structure or project.

(d) Sales of any housing accommodations to any person for investment purposes rather than for occupancy by the purchaser; but the purchaser of such housing accommodations is bound by the veterans' preference requirements in this part in renting or selling for occupancy.

(e) The occupancy of housing accommodations operated by a non-profit or public educational institution for the use of its students or teachers: *Provided, however,* That among eligible applicants for such accommodations at any particular time preference shall be given to veterans.

§ 801.9 *Appeals.* Any person who considers that compliance with any provision of this part would result in a hardship on him may appeal for relief. The appeal shall be in the form of a letter in duplicate addressed to the Housing Expediter, Washington, D. C., Ref.: VPR Appeal. The appeal must state clearly the specific provision of the part appealed from and describe fully the hardship which will result from compliance with the regulations in this part.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2457; Filed, Mar. 31, 1949; 8:47 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[T. D. 5694]

PART 191—IMPORTATION OF DISTILLED SPIRITS AND WINES

MISCELLANEOUS AMENDMENTS

1. On October 29, 1948, notice of proposed rule making regarding the rates of tax applicable to liqueurs, cordials, and similar compounds; flavored wines; and other compounds and preparations, was published in the FEDERAL REGISTER (13 F. R. 6356).

2. After consideration of all such relevant matter as was presented by interested persons regarding the proposal, §§ 191.8 and 191.9 of Regulations 21 (26 CFR, 191.8 and 191.9) are amended to read as follows:

§ 191.8 *Liqueurs, cordials, and similar compounds.* Liqueurs, cordials and similar compounds, containing distilled spirits, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax, when withdrawn, at the rate of $9 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. Fortified or unfortified wines, containing not over 24 per centum of alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines. (Secs. 2800 as amended, 3030 as amended, 3176, I. R. C.)

§ 191.9 *Rate of tax on other compounds and preparations.* Compounds and preparations, other than those specified in § 191.8, containing distilled spirits, which are fit for beverage purposes, in customs bonded warehouse or imported into the United States are subject to internal revenue tax at the rate of $9 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. Compounds and preparations, containing fortified or unfortified wine, but no distilled spirits, which are fit for beverage purposes and which are sold as wine, are subject to internal revenue tax at the rates applicable to wines. (Secs. 2800 as amended, 3030 as amended, 3176, I. R. C.)

3. These amendments are designed to correct the regulations to conform to the intendment of section 3030 (a) (2) of the Internal Revenue Code (26 U. S. C., 3030 (a) (2)). The effect of the amendments is that on and after the effective date thereof, internal revenue tax will be collected on imported liquers, cordials, flavored wines, compounds, and preparations (1) at the basic rate applicable to distilled spirits (namely, $9 per proof gallon, or wine gallon when below proof), if the products contain distilled spirits (as defined in § 191.3 of Regulations 21), or (2) at the basic rates applicable to wines (namely, 15 cents per wine gallon when containing not more than 14 per centum of alcohol by volume, 60 cents per wine gallon when containing more than 14 per centum and not exceeding 21 per centum of alcohol, $2 per wine gallon when containing more than 21 per centum and not exceeding 24 per centum of alcohol, and $9 per wine gallon, or proof gallon if over 100 proof, when containing more than 24 per centum of alcohol) if the products contain fortified or unfortified wine, but no distilled spirits, and are sold as wine.

4. This Treasury decision shall be effective on May 1, 1949, or on the 31st day after the date of its publication in the FEDERAL REGISTER, whichever date is later.

(Secs. 2800 as amended, 3030 as amended, 3176, Internal Revenue Code, 26 U. S. C. 2800, 3030, 3176)

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.
FRANK DOW,
Acting Commissioner of Customs.

Approved: March 28, 1949.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49-2431; Filed, Mar. 31, 1949; 8:53 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

[1949 Dept. Circ. 1]

PART 129—VALUES OF FOREIGN MONEYS

QUARTER BEGINNING APRIL 1, 1949

APRIL 1, 1949.

§ 129.12 *Calendar year 1949.* * * *

(b) *Quarter beginning April 1, 1949.* Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning April 1, 1949, expressed in any such foreign monetary units: *Provided, however,* That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

The value of foreign monetary units, as shown below in terms of United States money, is the ratio between the legal gold content of the foreign unit and the legal gold content of the United States dollar. It should be noted that this value, with respect to most countries, varies widely from the present exchange rates. Countries not having a legally defined gold monetary unit, or those for which current information is not available, are omitted.

Country	Monetary unit	Value in terms of U. S. money	Remarks
Canada and Newfoundland.	Dollar	$1.0031	Redemption of notes into gold suspended. Export of gold prohibited except under license.
Colombia	Peso	.5128	Monetary Law No. 90 of Dec. 16, 1948, effective Dec. 18, 1948, content of peso 0.50637 gram of gold 9/10 fine. Obligation to sell gold suspended Sept. 24, 1931.
Costa Rica	Colon	.1781	Parity of .158267 fine gram gold established by decree law effective Mar. 22, 1947.
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic.	Peso	1.0000	By Monetary Law No. 1528 effective October 9, 1947, gold content of peso equal to .888671 gram fine.
Ethiopia	Dollar	.4023	New unit established by Proclamation of the Emperor on May 25, 1945, effective July 23, 1945.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
Guatemala	Quetzal	1.0000	Decree No. 203 of Dec. 10, 1945, defined the monetary unit as 15 5/21 grains gold 9/10 fine. Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Hungary	Forint	.0852	New unit based on 13,210 forint per kilogram fine gold, effective July 1946.
Ireland	Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932; exchange control established Jan. 23, 1945.
Philippines	Peso	.5000	Act of Mar. 16, 1935; agreement between U. S. and Philippines concerning trade and related matters based on Philippine Trade Act of 1946.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Union of Soviet Socialist Republics.	Ruble	.1981	On basis of 5.6807 rubles per gram of fine gold.
Uruguay	Peso	.6583	Present gold content of .585018 grams fine established by law of Jan. 18, 1938. Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931.
Venezuela	Bolivar	.3267	Exchange control established Dec. 12, 1936.

(Sec. 25, 28 Stat. 552, sec. 403, 42 Stat. 17, sec. 522, 42 Stat. 974, sec. 522, 46 Stat. 739; 31 U. S. C. 372, April 1, 1949)

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 49-2430; Filed, Mar. 31, 1949; 8:46 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter I—Munitions Board

Subchapter A—Regulations Under the National Industrial Reserve Act of 1948

ISSUANCE OF REGULATIONS

This regulation, issued by the Munitions Board under authority delegated to the Board by the Secretary of Defense, prescribes the procedures for the administration of the National Industrial Reserve Act of 1948, approved July 2, 1948, Public Law 883 of the 80th Congress.

The regulation sets forth the relationship between the Munitions Board, acting for the Secretary of Defense; the Military Departments; the owning agencies; the disposal agencies; and the Federal Works Agency, which is the custodian of properties in the Reserve which have not been sold or leased. It sets forth the method of designating properties for the Reserve, the procedures governing the maintenance and utilization while in the Reserve, and the method of taking property out of the Reserve.

It is believed that the procedures set forth for implementation of the statute will carry out the intent of the Congress and the declared policies to provide an essential nucleus of Government-owned industrial plants and a reserve of machine tools and industrial manufacturing equipment for immediate use in time of emergency or in anticipation thereof, and to restrict the plants and the Reserve to the minimum numbers or kinds required for the intended purpose.

D. F. CARPENTER,
Chairman.

MARCH 24, 1949.

Part
111 General.
112 Procedures for designation and Maintenance of properties in the National Industrial Reserve.
113 The National Security Clause and procedures for transfers of property.

PART 111—GENERAL

SUBPART A—INTRODUCTION

SUBPART B—DEFINITION OF TERMS

SUBPART C—DELEGATIONS OF AUTHORITY

AUTHORITY: §§ 111.100 to 111.304 issued under sec. 213 (c) (10), 61 Stat. 506, Pub. Law 883, 80th Cong.; Deleg. of authority, Sec'y Defense, July 3, 1948, 13 F. R. 4576.

SUBPART A—INTRODUCTION

§ 111.100 *Scope of subpart.* This subpart sets forth (a) introductory information pertaining to this subchapter (its purpose, applicability, effective date, and arrangement), and (b) instructions for implementing and amending this subchapter.

§ 111.101 *Purpose of regulations in this subchapter.* The regulations in this subchapter, issued by the Munitions Board under authority delegated by the Secretary of Defense, establish for the National Military Establishment, the Federal Works Agency, and disposal agencies of the Government, policies and procedures relating to the establishment and administration of the National Industrial Reserve under the authority of the National Industrial Reserve Act of 1948, Public Law No. 883, 80th Congress (hereinafter referred to as the "act").

§ 111.102 *Applicability of regulations in this subchapter.* The regulations in this subchapter shall apply to the administration of all property in the National Industrial Reserve, and to all transfers and dispositions of property into and out of the National Industrial Reserve which may be effected on or after the effective date of the regulations in this subchapter. It shall also apply, to such extent as is practicable, to transfers and dispositions of property effected prior to the effective date of the regulations in this subchapter but shall not be construed to invalidate any action taken or any transfer, disposition, or other transaction effected prior to such effective date. Rules, regulations and directives of the National Military Establishment, the Federal Works Agency, and disposal agencies of the Government or of any department or subdivision of any of them, affecting property in the National Industrial Reserve not in conflict with the regulations in this subchapter, as from time to time amended, shall remain in full force and effect. Anything herein to the contrary notwithstanding, the regulations in this subchapter shall have no application to property of the Army, Navy, or the Air Force which has not heretofore, or is not hereafter, determined to be surplus to its needs and responsibilities by the Department having jurisdiction thereover.

§ 111.103 *Effective date of regulations in this subchapter.* The regulations in this subchapter shall be effective on and after April 1, 1949.

§ 111.104 *Amendment of regulations in this subchapter.* The regulations in this subchapter may be amended from time to time by the Munitions Board. Unless otherwise specifically provided in any amendment, compliance therewith shall not be mandatory until thirty days after the date of its issuance, although compliance shall be authorized from such date.

§ 111.105 *Procedures for implementing the regulations in this subchapter.* The Federal Works Administrator, and the head of any disposal agency may implement the regulations in this subchapter by prescribing for their respective departments or agencies detailed procedures which are not inconsistent with the regulations in this subchapter. Copies of such procedures shall in each instance be forwarded to all other interested departments, or agencies. Questions of interpretation of the regulations in this subchapter shall be resolved by the Munitions Board.

§ 111.106 *Delegations of authority.* The Secretary of Defense, the Federal Works Administrator, and the head of any disposal agency may to the extent permitted by law, delegate, and provide for the sub-delegation of, the authority and administrative functions imposed upon each of them respectively by the act or by the regulations in this subchapter.

§ 111.107 *Periodic reports to the Secretary of Defense.* For the purposes of the report required to be submitted by the Secretary of Defense to the Congress on April 1 of each year under section 12 of the act, the Federal Works Administrator and the head of each disposal agency having control of properties in the National Industrial Reserve shall, on or before February 1 of each year, submit to the Secretary of Defense a report of: (a) All of the property under his control in the National Industrial Reserve as of January 1 of such year; (b) the properties which have been received by him or certified for transfer to him during the preceding twelve months to become a part of the National Industrial Reserve; (c) the physical condition of each of the properties in the National Industrial Reserve; (d) the probability of disposal of each of such properties under the terms of the National Security Clause; (e) the approximate dates when determination as to disposability of each of such properties will be made; and (f) such recommendations as he may wish to make with respect to the administration of the properties under his control, or with respect to the need for amendment of the act or related legislation.

SUBPART B—DEFINITIONS OF TERMS

§ 111.201 *Definitions.* When used in the regulations in this subchapter terms shall be defined as set forth in §§ 111.201–1 to 111.201–12.

§ 111.201–1 *"Act".* The term "act" shall mean the National Industrial Reserve act of 1948 (Public Law 883, 80th Congress, Ch. 811, Second Session, Act of July 2, 1948.).

§ 111.201–2 *"National Industrial Reserve".* The term "National Industrial Reserve" shall mean (a) that excess industrial property which has been or shall be sold, leased, or otherwise disposed of by the United States subject to a National Security Clause, (b) that excess industrial property of the United States which, not having been sold, leased or otherwise disposed of subject to a National Security Clause, shall be transferred to the Federal Works Agency to be held or disposed of under the provisions of the act, and (c) that excess industrial property under the control of any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, which is not required for its immediate needs and responsibilities as determined by the head of such department or establishment and which shall be designated by the Munitions Board pursuant to section 4 of the act as a part of the National Industrial Reserve.

§ 111.201–3 *"Excess industrial property."* The term "excess industrial property" shall mean (a) any machine tool, (b) any industrial manufacturing equipment, and (c) any industrial plant, which tool, equipment, or plant is under the control of any executive department or independent establishment in the executive branch of the Government, including any wholly-owned Government corporation, and which is not required for its immediate needs and responsibilities, as determined by the head thereof.

§ 111.201–4 *"Machine tool."* The term "machine tool" shall mean any tool which is operated by power and is partly or wholly automatic.

§ 111.201–5 *"Industrial manufacturing equipment."* The term "industrial manufacturing equipment" shall mean any equipment which is used in the production of an article or product, including all tools and equipment connected with a production line or assembly line, but excluding equipment used solely for nonproductive or administrative pur-

poses. (For example, a dolly used for moving parts from one operation to another on the factory floor would be included within this definition, whereas a general-purpose truck used for collections and deliveries outside of the plant would be excluded.)

§ 111.201–6 *"Industrial plant."* The term "industrial plant" shall mean any plant (including structures on land owned or leased to the United States substantially equipped with machinery, tools, and equipment) which is capable of economic operation as a separate and independent industrial unit and which is not an integral part of an installation of a private contractor. For purposes of this definition the following factors shall be taken into consideration:

(a) Special structural design establishing special purpose—for example, vaulted ceilings for aircraft assembly plants, establishing purpose, regardless of tooling or other equipment.

(b) The removal of tools and equipment for safe storage shall not be considered to change the character of a structure as an industrial plant, if otherwise meeting the requirements of this definition.

(c) The presence of assembly lines, machine bases casting pots, special furnaces, or similar installations, shall be given consideration in determining whether a structure is substantially equipped, within this definition.

(d) A plant designed and equipped for one or more, but not all, of the manufacturing processes in the production of a particular material or product, may be an "independent industrial unit," within this definition.

(e) The lease, sale, or transfer of a portion or division of an industrial plant need not be considered to change the character of such industrial plant within this definition, if such portion or division can be restored to its former status by exercise of rights reserved to the Government.

(f) The lease or sale, subject to a National Security Clause, of the land (including protection areas) or underground improvements of an ordnance plant shall not be considered to change the character of such ordnance plant as an industrial plant within this definition.

§ 111.201–7 *"Nonprofit educational institution or training school".* The term "nonprofit educational institution or training school" means any school, training school, school system, library, college, university, research foundation, or other similar institution, organization, or association which is organized for the primary purpose of carrying on instruction or research in the public interest, and which is not organized or operated for profit.

§ 111.201–8 *"National Security Clause".* The terms "National Security Clause" and "the Clause", shall mean (a) those terms, conditions, restrictions, and reservations which are presently contained in instruments of transfer or lease of property to assure that such property will be available for purposes of national defense; and (b) those terms, conditions, restrictions and reservations formulated pursuant to the act, to be included in instruments of transfer of property in the National Industrial Reserve, in order to assure that such property will be available for purposes of national defense.

§ 111.201–9 *"Transfer".* The term "transfer" shall mean transfer or other disposition of property in the National Industrial Reserve made to another department or agency of the Government, pursuant to the provisions of the act.

§ 111.201–10 *"Disposal".* The term "disposal" shall mean any sale, lease, loan, or other disposition of property in the National Industrial Reserve made to a person other than a department or agency of the Government, pursuant to the provisions of the act.

§ 111.201–11 *"Transferee".* The term "transferee" shall mean any person, department, or agency to whom property in the National Industrial Reserve shall be transferred or disposed of either by sale, lease, loan or otherwise pursuant to the act.

§ 111.201–12 *"Disposal agency".* The term "disposal agency" shall mean any Governmental department, agency, or corporation having the authority to dispose of property which is excess to its needs, as well as any agency which has been created for the purpose of disposing of any excess Government property.

SUBPART C—DELEGATIONS OF AUTHORITY

§ 111.300 *Scope of subpart.* This subpart deals with the delegations of the authority of (a) the Secretary of Defense and (b) the Federal Works Administrator, under the act.

§ 111.301 *Delegation of authority by the Secretary of Defense.* (a) Under date of July 3, 1948, the Secretary of Defense made the following delegation to the Munitions Board (13 F. R. 4576):

Pursuant to the authority vested in the Secretary of Defense by the National Security Act of 1947 (61 Stat. 495), there are hereby delegated to the Munitions Board the functions, powers, duties and responsibilities of the Secretary of Defense under Public Law 883 (80th Congress), approved July 2, 1948.

(b) The Munitions Board has designated the Joint Army-Navy Machine Tool Control Committee (JANMAT Control Committee) to select and tag the machine tools and items of industrial manufacturing equipment for the National Industrial Reserve.

§ 111.302 *Action by the Munitions Board, subdelegation.* Action may be taken under the act on behalf of the Munitions Board by the Chairman, or by the Director of the Staff, by the Director for Industrial Programs, or the Chief of the Office of Production Planning, in the name of the Chairman. The authority delegated to the Munitions Board may be subdelegated to such subdivisions and agents of the Munitions Board as the Board may determine.

§ 111.303 *Redelegation to Secretaries of military departments.* The Munitions Board may, under the authority delegated to it by the Secretary of Defense, designate the Secretary of any one of the military departments of the National Military Establishment to administer the provisions of the National Security Clause applicable to a particular excess industrial property in the National Industrial Reserve in the control of a transferee and may redelegate such authority as may be required to enable such Secretary to carry out such responsibility including, without limitation, authority to consent to alterations in the premises and disposition or removal of production equipment: *Provided however*, That the provisions of the National Security Clause applicable to the property shall not be modified or waived, nor shall any dormant estate be activated or terminated (other than by its own terms) except pursuant to a determination by the Munitions Board.

§ 111.304 *Delegation of authority by the Federal Works Administrator.* (a) Under date of July 13, 1948, the Federal Works Administrator made the following delegation to the Commissioner of Public Buildings in the Federal Works Agency (F. W. A. Administrative Order No. 60):

By virtue of the authority vested in the Federal Works Administrator and pursuant to the National Industrial Reserve Act of 1948 (Public Law 883—80th Congress), it is hereby ordered:

Section 1. The Commissioner of Public Buildings, hereinafter referred to as the Commissioner, is hereby authorized to execute the functions vested in the Federal Works Agency under the provisions of the National Industrial Reserve Act of 1948; *Provided, however*, That disposals of property under the Act (including disposals by lease) where the monetary consideration accruing to the United States exceeds $200,000 shall be approved by the Administrator, who shall also sign all disposal documents relating thereto.

Section 2. The Commissioner is further authorized to delegate any of the duties and responsibilities hereby imposed upon him to any official or officials of the Public Buildings Administration and he is authorized to do and perform any and all acts as may be necessary to effectuate the provisions of said Act.

Section 3. The Commissioner is authorized to issue such operating procedures and instructions not in conflict with Federal law as he may deem necessary to carry out the provisions and effectuate the purpose of the Act.

PART 112—PROCEDURES FOR DESIGNATION AND MAINTENANCE OF PROPERTIES IN THE NATIONAL INDUSTRIAL RESERVE

SUBPART A—DESIGNATION

AUTHORITY: §§ 112.100 to 112.204–2 issued under sec. 213 (c) (10), 61 Stat. 506, Pub. Law 883, 80th Cong., Deleg. of Authority, Sec'y Defense, July 3, 1948, 13 F. R. 4576.

SUBPART A—DESIGNATION

§ 112.100 *Scope of subpart.* This subpart sets forth the procedures applicable to the designation by the Munitions Board of excess industrial properties which are to become a part of the National Industrial Reserve under the provisions of the act. It applies to two general categories of property—those properties which are under the control of disposal agencies, and those properties which have been disposed of by the United States to private individuals, firms, corporations or other persons, subject to a National Security Clause. It also applies to excess industrial properties which have been disposed of without National Security Clause restrictions and which at a future time may revert to the Government. This subpart also sets forth the procedures by which the latter type of properties may be designated for future inclusion in the National Industrial Reserve.

§ 112.101 *Designation of excess industrial properties under the control of disposal agencies.*

§ 112.101–1 *Reports.* Each disposal agency created for the purpose of disposing of excess Government property generally, shall within 90 days after the effective date of the regulations in this subchapter, furnish the Munitions Board with a statement of the industrial plants held by it for disposal, and shall on the 1st days of February and August of each year submit a report to the Munitions Board of additional industrial plants received by it for disposal during the six months period ending the preceding January 1 and July 1 respectively, and of all industrial plants previously designated for the reserve which shall have been disposed of by it, during the said six months. The head of every other disposal agency shall (1) within 90 days after the effective date of the regulations in this subchapter, furnish the Munitions Board with a statement of all of the industrial plants under its control which have been determined not to be required for the immediate needs and responsibilities of such agency, and (2) notify the Munitions Board immediately upon a determination in the future that an industrial plant under its control is no longer required for the immediate needs and responsibilities of such agency. The Munitions Board will specify the inventories and lists of property to be furnished to it by the heads of disposal agencies having machine tools, industrial manufacturing equipment or other personal property under their control as a part of the National Industrial Reserve.

§ 112.101–2 *Notice of designation.* In the case of property under the control of a disposal agency and to be designated for the National Industrial Reserve by imposition of National Security Clause restrictions upon its transfer, the Munitions Board will designate such property by a written notice to the head of the disposal agency having control of the property of its determination that such property is to become a part of the Reserve, and shall prescribe the provisions of the National Security Clause which shall be applicable to it.

§ 112.101–3 *Effective date of designation.* From and after the date of notice of designation, the property specified in such notice shall be deemed to become a part of the National Industrial Reserve.

§ 112.101–4 *Recommendation of property to be designated for National Industrial Reserve.* The Secretaries of the military departments of the National Military Establishment, the Chairman of the Research and Development Board, the Chairman of the National Security Resources Board, the Chairman of the Atomic Energy Commission, and the head of any other governmental department or agency having functions involving the national defense, may on behalf of his respective department, board, commission, or agency recommend the designation of specific excess industrial property, whether or not under his control, for inclusion in the National Industrial Reserve. Such recommendation should include a statement of the reasons that are believed to justify the proposed designation and should be forwarded to the Munitions Board.

§ 112.102 *Designation of excess industrial properties under the control of transferees.*

§ 112.102–1 *Property subject to the National Security Clause.* The properties heretofore disposed of which may be included in the National Industrial Reserve under section 3 (a) of the act by virtue of having been disposed of by the United States subject to a National Security Clause will be designated by the Munitions Board. Such designation will be contained in a notice to the transferee to whom such property has been disposed of and to the head of the department or agency which has authority to administer the clause. The notice shall state that the terms and conditions contained in the instrument of transfer for the protection of the Government have been determined to constitute a National Security Clause within the meaning of the act, and that the property has been designated to become a part of the National Industrial Reserve.

§ 112.102–2 *Effective date.* From and after the date of notice of designation, the property specified in the notice shall be deemed to have become a part of the National Industrial Reserve.

§ 112.102–3 *Continuation of property in the Reserve upon termination of lease.* Upon termination of a lease of property subject to a National Security Clause; the property shall continue to be a part of the National Industrial Reserve unless and until the Munitions Board determines that such property is no longer needed therefor, and it shall not be offered for further lease, sale, or other disposition except subject to the conditions of the National Security Clause as prescribed by the Munitions Board. The head of the agency responsible for disposition of such property shall, on or before the expiration of the lease, notify the Munitions Board of the expiration date thereof and shall in such notice recommend the modifications, if any, that in his opinion should be included in the provisions of the National Security Clause applicable to the property for purposes of further disposition.

§ 112.103 *Property not subject to National Security Clause, designation of for future inclusion in the Reserve.* With respect to property under the control of a transferee by virtue of a lease or other instrument reserving an interest in the Government, but not containing a National Security Clause, the Munitions Board may designate such property to be included in the National Industrial Reserve at the expiration of the lease or vesting in possession of such interest in the Government. Such designation shall be in writing addressed to the head of the agency responsible for disposition of the property, and shall include a statement of the terms and conditions of the National Security Clause which shall be included in any future sale, lease, or other disposition of property.

§ 112.104 *Records.* The Munitions Board will cause a list of the properties constituting the National Industrial Reserve to be maintained in sufficient detail and appropriately classified so as to indicate the nature, number, costs, and condition of the properties in the National Industrial Reserve, together with a statement of justification for their retention. Such records need not, however, include detailed or itemized inventories of small tools and equipment or other numerous articles although such information will be kept available to the extent that it is in existence. The Munitions Board will also maintain copies of the pertinent provisions of all instruments of transfer of properties in the National Industrial Reserve, including particularly the provisions of the National Security Clauses applicable thereto.

SUBPART B—MAINTENANCE

§ 112.200 *Scope of subpart.* This subpart deals with the subject of surveys and inspections of properties in the National Industrial Reserve, standards of maintenance of such properties, and provisions for the enforcement of such standards.

§ 112.201 *Engineering surveys.* The Federal Works Agency shall, when requested by the Munitions Board, make an engineering survey of any industrial manufacturing plant that has been

designated by the Munitions Board for transfer to the Federal Works Agency as a part of the reserve. Such survey may include a determination of (a) the present maintenance condition and status of the principal components of the plant, (b) the estimated cost of putting it in standby status and annual cost of maintenance in such status, (c) the cost of such rehabilitation and conversion as may be necessary to put the plant into full wartime operating status, (d) the estimated length of time that such rehabilitation and conversion would require, and (e) any other related information that may be requested by the Munitions Board. Such survey should also include recommendations of the Federal Works Agency as to the standards of maintenance to be applied, recommended maintenance standards to be presented in successive steps so as to be readily adaptable to the amount of funds available for purposes of maintenance and rehabilitation of properties in the National Industrial Reserve. The Federal Works Agency shall submit four copies of each such engineering survey to the Munitions Board upon its completion.

§ 112.202 *Periodic inspections.* The Munitions Board shall cause periodic inspections to be made of properties in the National Industrial Reserve, and such inspections shall be made not less often than annually for each such property. These inspections shall be conducted in such a manner and in such detail as to indicate whether or not the properties are being properly maintained in accordance with the prescribed standards, and whether the covenants of the National Security Clause are being performed.

§ 112.203 *Special reports.* In the event that a survey or inspection reveals the existence of a breach of one or more of the covenants of the National Security Clause, or conditions which if permitted to continue would adversely affect the availability of a particular property for national defense, a special report of such breach or condition shall be given by the department, agency, or other person making such survey or inspection to the Munitions Board immediately upon the discovery thereof, and notice shall also be given to the transferee in control of the property.

§ 112.204 *Maintenance standards.*

§ 112.204–1 *Plants.* The maintenance responsibilities of disposal agencies with respect to properties in the National Industrial Reserve which are under their control are as follows:

(a) Police protection against theft of property, destruction, and vandalism;

(b) Weather protection, with special emphasis on roofage, windows, water seepage, and drainage problems;

(c) Additional maintenance functions and standards for specific plants to be prescribed by the Munitions Board after consideration of the engineering surveys of such plant and other relevant factors.

§ 112.204–2 *Machine tools and industrial manufacturing equipment.* Except as noted below, maintenance standards of machine tools and industrial manufacturing equipment which has not been disposed of shall be in accordance with the "Joint Army, Navy and Air Force Technical Manual covering Overhaul and Processing of Machine Tools and Manufacturing Equipment for Standby and Extended Storage" as it may be amended from time to time. These standards may be modified in their application to specific properties by directive of the Munitions Board or, with the approval of the Munitions Board, by the agency in control of the property. Except as otherwise provided in the applicable National Security Clause, maintenance of such tools and equipment disposed of for use and operation by the transferee shall be in accordance with standards commensurate with sound business practice, having due regard for the Government's interest in preserving the productive capacity of such property.

PART 113—THE NATIONAL SECURITY CLAUSE AND PROCEDURES FOR TRANSFERS OF PROPERTY

SUBPART A—THE NATIONAL SECURITY CLAUSE

SUBPART B—DISPOSALS OF PROPERTY SUBJECT TO THE NATIONAL SECURITY CLAUSE

SUBPART C—TRANSFERS OF PROPERTY TO FEDERAL WORKS AGENCY

SUBPART D—TRANSFERS OF PROPERTY FOR USE OF, OR OPERATION BY, OTHER GOVERNMENTAL DEPARTMENTS AND AGENCIES

SUBPART E—LOAN OF PROPERTY IN THE NATIONAL INDUSTRIAL RESERVE TO NONPROFIT EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS

SUBPART F—DISPOSITION OF EXCESS INDUSTRIAL PROPERTY FREE OF NATIONAL SECURITY CLAUSE WHEN NO LONGER REQUIRED FOR NATIONAL INDUSTRIAL RESERVE

AUTHORITY: §§ 113.100 to 113.603 issued under sec. 213 (c) (10), 61 Stat. 506, Pub. Law 883, 80th Cong., Deleg. of authority, Secy. Defense, July 3, 1948, 13 F. R. 4576.

SUBPART A—THE NATIONAL SECURITY CLAUSE

§ 113.100 *Scope of subpart.* This subpart deals with the formulation of the National Security Clause, and procedures for modification of its provisions for purposes of specific transactions.

§ 113.101 *Formulation.* The National Security Clause is hereby formulated as follows:

1. The National Security Clause shall consist of those provisions of contracts or agreements of sale, letters of intent, deeds, bills of sale, leases, and other instruments of transfer of property in the National Industrial Reserve, which are necessary to protect the interest of the United States in such property and to carry out the purposes of Public Law 883, and shall ordinarily include substantially the following provisions which collectively shall be identified in each instrument as the National Security Clause:

(A) *Agreements of Sale and Letters of Intent.*

(1) *Reference to Public Law 883.* The premises to be conveyed constitute a part of the National Industrial Reserve under Public Law 883 (80th Congress) and have been designated for disposal subject to the provisions of the National Security Clause.

(2) *Action by the Government.* In exercising its rights and in carrying out its obligations under this National Security Clause, unless otherwise indicated, the Government will act through the Secretary of Defense or such departments, agencies, or individuals as he may designate, which may include, without limitation, the Munitions Board, or the Secretary of the Army, Navy, or Air Force. References in this National Security Clause to "the Government" shall be deemed to refer as appropriate to the Secretary of Defense or such departments, agencies, or individuals as he may designate for the purposes of administering the provisions of this National Security Clause.

(3) *Reservation of Dormant Estate.* The Government shall reserve in the premises to be conveyed a dormant estate for a period of twenty years from the effective date of transfer, which dormant estate may be activated in accordance with procedures specified herein as to the whole or any part of the premises for one or more periods, each of which shall not exceed five years in duration. At the expiration of the twentieth year the rights reserved to the Government with respect to the premises shall cease and terminate, notwithstanding any prior activation of the dormant estate.

(4) *Re-examination and Termination of Dormant Estate.* The Grantee, its successors, assigns, and any subsequent transferee of the premises, or the Government, may at any time cause a re-examination to be made of the necessity for continuing in effect the provisions of this National Security

Clause. When the Government determines that the dormant estate shall cease and terminate, it shall execute and deliver to the Grantee a release, quitclaim deed, or such other instruments as may be necessary to terminate the dormant estate.

(5) *Inspection of the Premises, Default by the Grantee.*

a. Upon reasonable prior written notice to the Grantee, the Government shall have the right to inspect the premises at any time or from time to time, and based upon such inspection to determine whether or not the Grantee is in default with respect to the performance of its obligations under this National Security Clause.

b. In the event that it is determined that the Grantee is so in default, the Government, after prior notice to the Grantee, shall have the right to cure such default, and, at the Grantee's expense, to restore the premises to the condition thereof existing prior to the default. The Grantee, upon demand, shall reimburse the Government for all costs of remedying any such default. The Government, or any contractor employed by the Government for the purpose, shall have the right of access to the premises or any part thereof as may be necessary to permit repairs and replacements to be made to correct the default of the Grantee. In the event of a substantial default by the Grantee, the Government shall have the right to take full possession of the premises and to retain possession thereof for such time as may be necessary to remedy the Grantee's default and until the Grantee has reimbursed the Government for all costs incurred thereby.

c. The Government shall have a lien upon the premises as security for reimbursement of all costs incurred by it in remedying any such default of the Grantee.

(6) *Alterations, Removal, and Maintenance of Property.*

a. During the twenty-year period of the dormant estate, the Grantee will not, without the written consent of the Government make any alteration to the premises which will materially impair or diminish the capacity of the premises as existing at the effective date of transfer, to produce the items for which the premises were designed, unless other facilities of the Grantee which are determined by the Government to have equivalent productive capacity, are made subject to all of the terms and conditions set forth in this National Security Clause.

b. The Grantee will protect, preserve, and maintain all lands, structures, appurtenances, machinery and equipment now in or appurtenant to the premises throughout the periods specified below in good condition and repair in accordance with sound practice in the industry:

Facility	*Period of maintenance*
Lands; permanent structures and appurtenances (Main structural frame of metal, concrete, or masonry).	20 years.
Timber structures and their appurtenances.	15 years.
Machinery and equipment	10 years.
Schedule I	As specified therein.

c. During the applicable periods of maintenance specified in subparagraph (6) (b) hereof, the Grantee will not, without the written consent of the Government, dispose of or remove any of the production equipment to be transferred, the disposal or removal of which will impair or diminish the capacity of the premises to produce the items for which they were designed, unless the production equipment disposed of or removed is immediately replaced by equivalent production equipment furnished by the Grantee which equivalent production equipment shall be made subject to all of the provisions of this National Security Clause. Nothing contained herein shall be construed to prevent the Grantee from moving any of the production equipment transferred hereunder from place to place within the premises for the purpose of improving operating efficiency or increasing productive capacity of the premises. The Grantee shall not be obligated to retain or replace any facility or item of property after the expiration of the applicable period of maintenance specified in subparagraph (6) (b) hereof.

d. The obligations of the Grantee under this National Security Clause are intended to become covenants running with the land and shall be so stated in the deed of the premises; provided, however, that the Grantee shall not be liable for violation of any of said obligations by any subsequent owner of the premises.

(7) *Activation of Dormant Estate.*

a. Whenever the Government determines that the productive output of the premises is needed for national defense purposes, it shall so notify the Grantee. Following such notification, the Government will undertake to negotiate a contract with the Grantee for the supplies, materials, or services requiring such utilization of the premises, provided the Grantee in the opinion of the Government is qualified to perform the work required.

b. In the event either (i) the Government determines that the Grantee is not qualified, or (ii) a mutually satisfactory contract cannot be negotiated with the Grantee, the Government may activate the dormant estate. The dormant estate shall be activated by a written notice from the Government to the Grantee setting forth the date upon which the estate shall be activated, which date shall be not less than 15 days from the date of receipt of such notice by the Grantee.

c. Upon activation of the dormant estate, the Grantee will immediately proceed to remove from the premises such improvements, fixtures, alterations, machinery and other equipment installed by the Grantee in the premises as the Government may direct. The removal of improvements, fixtures, alterations, machinery and other equipment installed by the Grantee shall be completed in the shortest possible time and in any event not to exceed 120 days from the date of activation of the dormant estate, unless otherwise agreed upon between the Grantee and the Government. Thereafter, the Grantee shall have no further right to enter upon the premises during the period of activation of the dormant estate except with the prior written consent of the Government. During any period of activation of the dormant estate, the premises may be used, occupied or operated for or on behalf of the Government by any Government department, agency, or agent, or by any tenant, contractor, or subcontractor of the Government.

d. Upon such activation of the dormant estate, the Government shall have the right to full possession and use of the premises, together with such easements, rights-of-way, or other interests as are appurtenant to the premises, including all rights-of-way over and across property of the Grantee necessary or convenient for the operation or use of the premises.

e. During any period in which the dormant estate has been activated, the Government will pay to the Grantee:

(i) Fair and reasonable compensation for the use of the premises at a rate to be determined by the Government not in excess of the prevailing normal rental for similar property; and

(ii) Fair compensation for all losses, not including loss of profits, incurred by the Grantee in respect of work in process in the premises which cannot be completed due to activation of the dormant estate; and

(iii) Upon completion of the work involved, fair and reasonable costs incurred by the Grantee in complying with paragraph (7) (c) hereof.

(iv) Following relinquishment of possession by the Government, fair and reasonable costs incident to reinstallation of Grantee's machinery and equipment in the premises and restoration of buildings included in the premises to the same or equivalent condition existing immediately prior to the activation of the dormant estate, reasonable depreciation excepted.

(8) *Damage to or Destruction of Premises.* In the event that at any time during the twenty-year period of the dormant estate, the premises to be conveyed or any part thereof shall be damaged or destroyed by fire or other casualty, and the property damaged or destroyed is covered by insurance payable to the Grantee, the proceeds of such insurance shall be applied by the Grantee to the restoration of the damaged or destroyed property; provided, however, that no such application of the proceeds of the insurance need be made if restoration of the damaged or destroyed property cannot reasonably be accomplished prior to the end of the twenty-year period or if, in accordance with paragraph (4) of this National Security Clause, the dormant estate has been previously terminated.

(9) *Disputes.* All disputes concerning questions of fact arising hereunder shall be decided by the Secretary of Defense, or by such Board or Office as he may from time to time designate, whose decision shall be final and binding upon the parties hereto. Pending such decision the Grantee shall diligently proceed with the performance of its obligations hereunder.

(10) *Sale, Lease, Mortgage, or other Disposition of the Premises.* Nothing herein contained shall affect or impair the right of the Grantee to sell, lease, mortgage, or otherwise dispose of the premises to be conveyed or any portion or portions thereof, provided such sale, lease, mortgage or disposition shall be made expressly subject to the terms and conditions of this National Security Clause.

(11) *Recording of Agreement of Sale.* The Grantee forthwith shall cause this instrument to be duly recorded and shall furnish satisfactory evidence of such recordation to the Government.

(B) *Deeds of Real Estate, Including Rights in Real Property.*

(1) *Reference to Public Law 883.* The granted premises constitute a part of the National Industrial Reserve under Public Law 883 (80th Congress) and have been designated for disposal subject to the provisions of the National Security Clause. This and the following provisions constitute the National Security Clause of this deed:

(2) *Form.* The deed shall be in the form of a quitclaim, but shall be signed by both parties and shall contain the restrictions set forth in the following subparagraphs (3), (4), and (5).

(3) *Reference to Agreement of Sale.* It shall make specific reference to the agreement of sale or letter of intent.

(4) *Reservation of Dormant Estate.* It shall reserve to the Government the dormant estate.

(5) *Covenants to Run With Land.* The covenants of the parties in the National Security Clause shall be set forth in the deed and declared to run with the land.

(6) *Recording.* The deed shall be duly recorded and the Grantee shall furnish satisfactory evidence of such recordation to the Government.

(C) *Bills of Sale of Personal Property.*

(1) *Reference to Public Law 883.* The property hereby transferred constitutes a part of the National Industrial Reserve under Public Law 883 (80th Congress) and has been designated for disposal subject to the provisions of the National Security Clause pursuant to Section 4 (4) thereof. This and the following provisions constitute the National Security Clause of this bill of sale:

(2) *Form.* The bill of sale shall be signed by both parties, and shall include the additional provisions set forth below.

(3) *Reference to Agreement of Sale.* It shall make specific reference to the agreement of sale or letter of intent.

(4) *Maintenance, Removal, and Replacement.* The bill of sale shall contain covenants by the Grantee with respect to the maintenance, removal, and replacement of machine tools and manufacturing equipment corresponding to its covenants in the agreement of sale or letter of intent as prescribed in subparagraphs (6) b, c, and d of the agreement of sale.

(5) *Inspection.* The bill of sale shall contain provisions permitting inspection of the personal property transferred substantially in accordance with the provisions of agreement of sale or letter of intent as prescribed in subparagraph (5) of the agreement of sale.

(6) *Recording.* The bill of sale shall be duly recorded and the Grantee shall furnish satisfactory evidence of such recordation to the Government.

(D) *Leases*

(1) In the case of leases, the National Security Clause will consist only of those special provisions which are included for the purpose of protecting the interests of the Government under Public Law 883 in the leased property and the preservation of its productive capacity. Other provisions will, however, also have to be included for the purpose of protecting the interests of the Government generally, and it is assumed that such provisions will be included as appropriate in each instrument. These provisions include, without limitation, the requirement that the Lessee keep the premises adequately insured, prohibition of assignments or subleases without the consent of the Government, and the usual right of termination of the lease and repossession by the Government for breach of covenants or conditions by the Lessee, or upon its insolvency or bankruptcy.

The lease shall include substantially the following specific provisions which shall constitute the National Security Clause:

(2) *Reference to Public Law 883.* The leased premises constitute a part of the National Industrial Reserve under Public Law 883 (80th Congress), and have been designated for disposal subject to the provisions of the National Security Clause.

(3) *Action by the Government.* In carrying out its obligations under this National Security Clause, unless otherwise indicated, the Government will act through the Secretary of Defense or such departments, agencies, or individuals as he may designate, which may include, without limitation, the Munitions Board, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force. References in this National Security Clause to "the Government" shall be deemed to refer, as appropriate, to the Secretary of Defense or such departments, agencies, or individuals as he may designate for the purpose of administering the provisions of this National Security Clause.

(4) *Maintenance.* The Lessee, in accordance with sound practice in the industry, will at its own expense protect, preserve, and maintain the premises, ordinary wear or damage by fire or other unavoidable casualty excepted, in the same condition as they now are or may be put in during the term.

(5) *Alterations.* No substantial alterations, additions removals, or betterments shall be made to any part of the premises without the prior written consent of the Government, and any additions or betterments which are in fact annexed to the premises by the Lessee and which cannot be readily removed without injury thereto will become the property of the Government.

(6) *Inspection.* The Government may, upon reasonable prior written notice to the Lessee, at any time and from time to time enter the premises during the period of the tenancy to determine whether or not the Lessee is in default in the performance of its covenants under this National Security Clause.

(7) *Termination for Convenience of the Government.* Notwithstanding any other provisions of this lease, this lease may be terminated by the Government:

I. Immediately, upon written notice of termination to the Lessee during any national emergency hereafter declared by the President or the Congress; or

II. Upon 90 days' written notice of termination to the Lessee whenever the Government may determine that the interests of national defense so require.

(8) *Restoration and Surrender of the Demised Premises.* Upon the expiration of the lease, or upon the earlier termination thereof by the Government pursuant to Section (7) I or II above, the Lessee will proceed immediately at its own expense (a) to remove from the premises all machinery, equipment, and other property installed by it, (b) to restore the premises to as good repair, order, and condition in all respects (reasonable wear and use thereof and damage by fire or other unavoidable casualty excepted) as they were in at the beginning of the term, and (c) peaceably to surrender the premises to the Government in accordance with the terms of the notice of termination.

Upon expiration of the lease, such removals and restoration shall be completed by the Lessee not later than the date of such expiration; and upon earlier termination pursuant to Section (7) I or II above, such removals and restoration shall be completed by the Lessee not later than 90 days after the date of notice of termination. Should the Lessee fail to complete such removals and restoration upon the date, or within the period, herein prescribed, the Government shall cause such removals and restoration to be made for the account and at the expense of the Lessee.

2. The National Security Clause hereby formulated, should be modified in matters of form to meet the requirements of each particular transaction, and may be modified in substance in accordance with the provisions of the Act and this regulation.

3. This National Security Clause may be referred to as "the National Security Clause approved March 17, 1949".

§ 113.102 *Modifications in National Security Clause.* The National Security Clause prescribed in this part may be modified or deviated from and specific provisions may be omitted for purposes of specific properties and transactions provided such modifications, deviations, or omissions of substance are approved by the Munitions Board before becoming binding upon the Government.

SUBPART B—DISPOSALS OF PROPERTY SUBJECT TO THE NATIONAL SECURITY CLAUSE

§ 113.200 *Scope of subpart.* This subpart deals with the procedures for disposing of property in the National Industrial Reserve to private individuals, firms, corporations, or other persons, subject to the National Security Clause.

§ 113.201 *Specification of National Security Clause.* The Munitions Board may authorize disposition of specific properties, and will specify the National Industrial Reserve and will notify the head of the disposal agency having control of each such property. If not otherwise specified, the National Security Clause formulated in this part shall be considered to be applicable.

§ 113.202 *Modification of National Security Clause.* In the event that any agency charged with the disposal of excess property in the National Industrial Reserve is unable to dispose of such property because the terms of the National Security Clause imposed upon it are unacceptable without modifications and substance, the head of such agency shall promptly notify the Munitions Board thereof, indicating the modifications in the disposal of the property. Upon receipt of such notification, the Munitions Board may, in its discretion, direct what, if any, modifications shall be made in the provisions of the National Security Clause applicable to the property, which modifications may, but need not, conform to the recommendations of the head of the disposal agency.

§ 113.203 *Qualifications of transferees.* In addition to any other requirements, disposals of property in the National Industrial Reserve shall be made only upon proof, satisfactory to the head of the disposal agency having control of such property, of the financial responsibility and integrity of the transferee, and of his or its ability to operate the property and knowledge of the technical problems involved.

§113.204 *Negotiation of terms of disposition.*

§ 113.204–1 *Responsibility of head of disposal agency.* Except as provided in § 113.204–1, negotiations for the sale, lease, or other disposition of a property in the National Industrial Reserve shall be the responsibility of the head of the disposal agency having control of the property. The terms of such disposition shall in all cases include the provisions of the National Security Clause as specified by the Munitions Board for the property, with such modifications as may be approved, but in other respects may be upon such terms and conditions as shall be mutually agreed upon by the head of the disposal agency and the transferee.

§ 113.204–2 *Negotiations by Federal Works Agency.* In the case of negotiations for the sale, lease or other disposition of a property in the National Industrial Reserve by the Federal Works Agency, terms and conditions negotiated by the Federal Works Agency shall not become effective until they have either been approved by the Munitions Board, or the Munitions Board has indicated that its approval of the particular transaction or type of transaction is not required.

§ 113.205 *Disposal procedures.* Subject to the regulations in this subchapter and to the extent not inconsistent with it, disposals of property in the National Industrial Reserve subject to the National Security Clause shall be governed by the rules, regulations, and procedures established by the disposal agency having control of such property.

§ 113.206 *Documentation.* Each disposal of property shall be documented in accordance with the rules, regulations and procedures of the disposal agency having control of the property, and, in addition, the Munitions Board shall be furnished with at least three conformed copies of all documents of transfer including any letters of intent, agreements

and other documents containing the commitments of the parties to enter into the transaction.

SUBPART C—TRANSFERS OF PROPERTY TO FEDERAL WORKS AGENCY

§ 113.300 *Scope of subpart.* This subpart deals with the procedures for transfers of property to the Federal Works Agency to be held by it as a part of the National Industrial Reserve. Such property will ordinarily come to the Federal Works Agency as a result of the failure of other disposal agencies to dispose of it subject to the National Security Clause or authorized modifications thereof. It may be held by Federal Works Agency as custodian for an indefinite period of time, or it may be transferred or disposed of by the Federal Works Agency in accordance with directives of the Munitions Board.

§ 113.301 *Certification of unsalability and transfer directive.*

§ 113.301–1 *Determination by head of disposal agency.* Upon a determination by the head of a disposal agency that a particular excess industrial property in the National Industrial Reserve which is under its control cannot be disposed of subject to the National Security Clause, or a National Security Clause as modified in accordance with the provisions of § 113.202, after every practicable effort has been made, he shall give written notice to the Munitions Board certifying that such property is not salable subject to a National Security Clause.

§ 113.301–2 *Disposition or transfer by Munitions Board directive.* Upon receipt of a certification that a property is unsalable under the provisions of a National Security Clause, the Munitions Board may, in its discretion: (a) Direct the disposition of such plant in accordance with the provisions of subpart D of this part or; (b) direct the certifying agency to transfer such property to the Federal Works Agency in accordance with the provisions of this part.

§ 113.301–3 *Limitation on necessity for modification of conditions.* It shall not be necessary, as a condition precedent to certification, transfer or disposal under §§ 113.301 to 113.301–3, to seek to dispose of any property under a modified National Security Clause, or to attempt to dispose of any property for a use other than the use for which it was designated for the National Industrial Reserve.

§ 113.302 *Transfer of possession, accountability and responsibility.* Transfer of possession, accountability and responsibility pursuant to directive of the Munitions Board in accordance with the provisions of § 113.301–2 shall be in accordance with such procedures as may be prescribed by the Federal Works Agency. Unless otherwise prescribed by the Munitions Board, transfers shall include the entire interest of the Government at the location of the property being transferred including the assignment of responsibility for administration of all agreements relating to such property; other than agreements secured by mortgage, lien, or other interests; the Federal Works Agency to assume the obligation of all such agreements as of the date of transfer. All such transfers shall be without reimbursement or transfer of funds and the property transferred shall continue to be held as a part of the National Industrial Reserve unless other instructions shall be received from the Munitions Board.

§ 113.303 *Documentation.* Each transfer of property to the Federal Works Agency shall be documented according to procedures specified by the Federal Works Agency, and the Munitions Board shall be furnished with at least three conformed copies of all documents of transfer.

§ 113.304 *Transfer of machine tools and industrial manufacturing equipment.* Machine tools and industrial manufacturing equipment which may be designated as a part of the National Industrial Reserve shall not be offered for disposal except as part of a plant which is to be disposed of, but shall be transferred to the Federal Works Agency in accordance with the provisions of this subpart. Transfers of such machine tools and equipment shall be accomplished without reimbursement or transfer of funds.

SUBPART D—TRANSFERS OF PROPERTY FOR USE OF, OR OPERATION BY, OTHER GOVERNMENTAL DEPARTMENTS AND AGENCIES

§ 113.400 *Scope of subpart.* This subpart deals with the procedures for transfers of property in the National Industrial Reserve in the custody of the Federal Works Agency to other governmental departments and agencies, to be used or operated by such other departments or agencies while the property in question continues to constitute a part of the National Industrial Reserve.

§ 113.401 *Request for transfer.* The head of any governmental department or agency may present a written request to the Munitions Board for the transfer to his department or agency of any property in the National Industrial Reserve which is being held by the Federal Works Agency for the use of or operation by the department or agency on behalf of which the request is made. Such request shall be in writing, and shall set forth in detail the uses that are intended to be made of the property, the standard of maintenance that is contemplated, the effect of such use or operation upon the availability of the property for the purpose of national defense, and other contemplated terms and conditions of the proposed transfer. The department or agency so making a request shall furnish the Munitions Board with such additional information relating to the proposed use and operation of the property as the Munitions Board may request.

§ 113.402 *Terms of transfer.* The Munitions Board may deny any such request, or may offer to transfer the property requested upon terms other than those contained in the request.

§ 113.403 *Direction to transfer.* The Munitions Board may, in its discretion and without request, direct that property in the National Industrial Reserve under the control of the Federal Works Agency be transferred to any one of the military departments of the National Military Establishment or any other department or agency, with its consent for the use of or operation by such department or agency, without reimbursement.

§ 113.404 *Accountability and responsibility.* Upon completion of the transfer of the property, in accordance with the terms of transfer prescribed by the Munitions Board, and pursuant to the regulations and procedures of the disposal agency having control of the property prior to the transfer, the department or agency to which the property has been transferred shall be responsible for the proper maintenance of the property and for its availability for purposes of national defense, as prescribed by the Munitions Board in the terms of transfer.

§ 113.405 *Inspection and reports.* While subject to the use of or operation by such other governmental department or agency, the property shall be available for the engineering surveys and inspections provided for in Subpart B of Part 112 of this subchapter, and such department or agency shall adhere to the maintenance requirements specified in said Subpart B and shall make such reports to the Munitions Board from time to time concerning the property's condition and availability, together with accounts of its operation, as may be requested by the Munitions Board.

§ 113.406 *Return of property.* Whenever such governmental department or agency has no further need for the use or operation of property transferred to it under this subpart it shall promptly notify the Munitions Board. Upon receipt of such notice, the Munitions Board shall cause a review to be made of the justification for the retention of such property in the National Industrial Reserve, and if such retention is determined to be justified, the Munitions Board may (a) cause it to be transferred to another department or agency for its use in accordance with terms and conditions to be prescribed, or (b) direct it to be transferred to the Federal Works Agency to be held by it in the National Industrial Reserve.

SUBPART E—LOANS OF PROPERTY IN THE NATIONAL INDUSTRIAL RESERVE TO NONPROFIT EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS

§ 113.500 *Scope of subpart.* This subpart deals with the rules and procedures governing loans of property in the National Industrial Reserve by the Federal Works Agency to nonprofit educational institutions and training schools, as provided in the act. Such loans will be limited to certain machine tools and industrial manufacturing equipment under the control of the Federal Works Agency.

§ 113.501 *Application for loan of property.* The head of any nonprofit educational institution or training school as defined in § 111.201–7 of this subchapter may make a written application to the Federal Works Agency for the loan of specific machine tools or industrial manufacturing equipment for the use of such institution or school in connection with

a program of instruction. The application shall specify in detail the property requested, the nature of the program, and the number, age, and qualifications of the persons expected to participate in the program.

§ 113.502 *Investigation and report by Federal Works Agency.* Upon receipt of an application for a loan of property in the National Industrial Reserve the Federal Works Agency will cause an investigation to be made to determine (a) whether the applicant conforms to the definition contained in § 111.201–7 of this subchapter, (b) the accuracy of the statements contained in the application, (c) the ability of the applicant properly to care for and maintain the property, (d) the importance of the property in question to the program of instruction, (e) the relative importance of the program as a means of training critically needed skills, compared to the importance of preserving the productive capacity of the property for future use, and (f) such other facts as may be material. The results of such investigation will be reported by the Federal Works Agency to the Munitions Board together with its recommendation with respect to the granting or denying of the application.

§ 113.503 *Action by Munitions Board, conditions of loan.* The Munitions Board may in its discretion authorize or refuse to authorize such loan. In the event that it is authorized, the loan of the property applied for will be upon terms (a) requiring the property to be fully cared for and maintained by the applicant according to such standards as the Munitions Board may prescribe, (b) requiring the property to be kept available for immediate return upon request to the Federal Works Agency or such other Governmental department or agency, or other person as the Munitions Board may designate, and (c) requiring the applicant to assume all costs of transportation, maintenance, and insurance of the property while subject to the loan, so that the loan will be without expense to the Government.

§ 113.504 *Authorization to Federal Works Agency.* In the event that the Munitions Board approves the loan, the Federal Works Agency will be notified of such approval, and will be authorized to make the loan upon the conditions prescribed in § 113.503, and such other terms as the Federal Works Agency may prescribe.

SUBPART F—DISPOSITION OF EXCESS INDUSTRIAL PROPERTY FREE OF NATIONAL SECURITY CLAUSE WHEN NO LONGER REQUIRED FOR NATIONAL INDUSTRIAL RESERVE

§ 113.600 *Scope of subpart.* This subpart deals with procedures for disposition of property in the National Industrial Reserve when it is no longer needed for such reserve.

§ 113.601 *Relinquishment or waiver of National Security Clause.* Whenever the Munitions Board shall determine that the retention of the productive capacity of an excess industrial property in the National Industrial Reserve (including a lesser part or interest than the entire property) is no longer essential to the national security, it will authorize the relinquishment or waiver of a part or all of the provisions of the National Security Clause applicable to such property.

§ 113.601–1 *Property under control of disposal agency.* If the property is under the control of a disposal agency, the Munitions Board will notfiy the head of such disposal agency of the relinquishment or waiver of the National Security Clause, and the property shall thereafter be offered for disposition free from the provisions so relinquished or waived.

§ 113.601–2 *Property under control of a transferee.* If the property has been disposed of to a transferee subject to a National Security Clause, the Munitions Board will relinquish or waive the National Security Clause.

[F. R. Doc. 49–2421; Filed, Mar. 31, 1949; 9:01 a. m.]

Chapter V—Department of the Army

Subchapter F—Personnel

PART 582—DISCHARGE OR SEPARATION FROM SERVICE

DISCHARGE BECAUSE OF MINORITY

Paragraph (b) (2) of § 582.1 is changed to read as follows:

§ 582.1 *Discharge because of minority.* (a) * * *

(b) *Application of laws.* * * *

(2) Unless under charges or in confinement for a serious offense, an enlisted man who was under 17 years of age or an enlisted woman who was under 18 years of age at the time of enlistment or induction, will be discharged when it is discovered that such person is under the age of 18 years or 21 years, respectively. Satisfactory evidence as to date of birth is required.

* * * * *

[C2, AR 615–362, Mar. 18, 1949] (Pub. Law 759, 80th Cong.; 61 Stat. 191; 10 U. S. C. Sup. 628)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 49–2428; Filed, Mar. 31, 1949; 8:53 a. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

Appendix—Canal Zone Orders

[Canal Zone Order 17]

LEAVE OF ABSENCE FOR EXCEPTED ALIEN EMPLOYEES

By virtue of the authority vested in the President of the United States by section 81 of title 2 of the Canal Zone Code, as amended, and delegated to me by Executive Order No. 9746 of July 1, 1946, section 39 of Executive Order No. 1888 of February 2, 1914, as amended by Canal Zone Order No. 5 of January 30, 1947, is further amended to read as follows effective May 1, 1949:

SEC. 39. *Leave of absence for excepted alien employees.* The Governor is authorized, by such regulations as he may prescribe, to grant leave to such alien employees as are excepted by section 20 of this order from entitlement to leave privileges under sections 20 to 38 of this order, and to provide for the commutation thereof: *Provided,* That the leave which may be accredited to any such employee shall not exceed 208 hours in any one year, and that leave shall not be accumulated in excess of 416 hours.

KENNETH C. ROYALL,
Secretary of the Army.

MARCH 25, 1949.

[F. R. Doc. 49–2410; Filed, Mar. 31, 1949; 9:15 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 36—SERVICEMEN'S READJUSTMENT ACT OF 1944

SUBPART A—TITLE III; LOAN GUARANTY

New §§ 36.4380 through 36.4384 are added to Part 36 read as follows:

Sec.
36.4380 Establishment of loan guaranty committee on waivers and compromises.
36.4381 Jurisdiction of regional office loan guaranty committee.
36.4382 Jurisdiction of central office loan guaranty committee on waiver and compromises.
36.4383 Authority to execute necessary documents.
36.4384 Principles to be followed by loan guaranty committee for waivers and compromises.

AUTHORITY: §§ 36.4380 to 36.4384 issued under 58 Stat. 284, 59 Stat. 626; 38 U. S. C. 693, et seq., 694, et seq.

§ 36.4380 *Establishment of loan guaranty committee on waivers and compromises.* There is established in central office and in each regional office a loan guaranty committee on waivers and compromises. The committee will be comprised of three members, one of whom is to be designated as chairman. The regional office committee shall be appointed by and function under the jurisdiction of the regional manager. The central office committee shall be appointed by the Administrator and function under the jurisdiction of the assistant administrator for finance.

§ 36.4381 *Jurisdiction of regional office loan guaranty committee.* (a) The regional office committee will have original jurisdiction to adjudicate all cases in its area involving an indebtedness by a veteran to the United States of $2500 or less, resulting from payment of the gratuity, or the guaranty or insurance of a loan under Title III of the Servicemen's Readjustment Act of 1944, as amended (sections 694–694j inclusive, 38 U. S. C.).

(b) The regional office committee will determine whether the indebtedness or any part thereof, shall be waived and if not waived (1) whether a compromise settlement shall be accepted (except as

to litigated cases) or (2) whether the indebtedness on the loan shall or shall not be collected from compensation or pension.

(c) The decision of the regional committee to be effective must be unanimous. Such decision shall be final subject to review on appeal to the central office loan guaranty committee on waivers and compromises. However, the regional committee may review and modify its decision upon the submission of new and material evidence. In the event of a dissent by one of the members the case will be referred with memorandum opinion from each member for consideration by the central office loan guaranty committee on waivers and compromises. An appeal from the regional office committee's decision must be filed within 90 days from the date of mailing notice of its decision to the veteran.

(d) The regional office committee, subject to current regulations and instructions shall have jurisdiction to authorize the release of any right, title, claim, lien, or demand, however acquired, against any person obligated on a loan guaranteed or insured pursuant to the provisions of Title III of the Servicemen's Readjustment Act of 1944, as amended.

§ 36.4382 *Jurisdiction of central office loan guaranty committee on waiver and compromises.* (a) The central office committee will have jurisdiction to consider and adjudicate:

(1) All such cases of indebtedness referred to it, irrespective of amount;

(2) All such cases of indebtedness involving more than $2,500;

(3) All cases in which an appeal has been filed from the decision of the regional office loan guaranty committee involving an indebtedness by the veteran to the United States resulting from a guaranty or insurance of a loan—under Title III of the Servicemen's Readjustment Act of 1944, as amended.

(b) The central office committee will determine whether the indebtedness or any portion thereof, shall be waived and if not waived (1) whether a compromise settlement shall be accepted (except in litigated cases) or (2) whether the indebtedness on the loan shall or shall not be collected from compensation or pension.

(c) The decision of the majority members of the central office committee in any matter within its jurisdiction shall, subject to an administrative appeal, by an assistant administrator or the solicitor, be final and conclusive. However, the committee may review and modify its decision upon the submission of new and material evidence. An administrative appeal must be filed by an assistant administrator or the solicitor within 90 days from the date of the decision of the central office committee.

(d) The central office committee, subject to current regulations and instructions, shall have jurisdiction to authorize the release of any right, title, claim, lien, or demand, however acquired, against any person obligated on a loan guaranteed or insured pursuant to the provisions of Title III of the Servicemen's Readjustment Act of 1944, as amended.

§ 36.4383 *Authority to execute necessary documents.* Each of the employees enumerated in § 36.4342 (b) is authorized upon the advice of the solicitor or the chief attorney of the regional office to execute on behalf of the Administrator of Veterans' Affairs releases or other documents necessary to effectuate a decision of the central office or a regional office loan guaranty committee on waivers and compromises.

§ 36.4384 *Principles to be followed by loan guaranty committee for waivers and compromises.* (a) In determining whether an indebtedness or any part thereof shall be waived, the general equitable principles of section 28, World War Veterans Act, as amended (38 U. S. C. 507a), as explained in Veterans' Administration adjudication procedure will be applied. The indebtedness may be waived in whole or in part: (1) When the veteran was not at fault in the creation of indebtedness which is being considered by the committee and (2) where recovery of the whole or the part concerned would defeat the purposes of the benefits otherwise authorized under the laws administered by the Veterans' Administration, or would be against equity and good conscience.

(b) What constitutes fault necessarily depends on the facts in the individual case. However, the committee in its determination as to fault shall apply the same principles that a court of equity would apply in determining "whether a petitioner comes into equity with clean hands."

(c) In determining whether recovery in whole or in part from other Veterans' Administration benefits would defeat the purpose of benefits otherwise authorized under the laws administered by the Veterans' Administration, the real purpose of the benefit is the basic criterion. Thus, while recovery in whole or in part might defeat benefits, it might not defeat the purpose of such benefits. The primary purpose of most of the benefits under the laws administered by the Veterans' Administration is to furnish a measure of support, or means of obtaining a support, for veterans and their dependents. (See Veterans' Administration adjudication procedure.)

(d) In determining whether it would be against equity and good conscience to recover the whole or any part of the indebtedness the following general equitable rules should be considered:

(1) "He who seeks equity must do equity."

(2) Money paid under mistake cannot be recovered where the payee is entitled in equity and good conscience to retain.

(3) Where the payee by reason of the payment has relinquished a valuable right which he would have retained, or where by reason of such payment he has changed his position for the worse, it would be inequitable to penalize for such change.

(4) If the debt, or a part thereof, is due to the fault of the Veterans' Administration, the veteran being without fault, it would be inequitable to require payment thereof. (See Veterans' Administration adjudication procedure.)

[SEAL] O. W. CLARK,
Executive Assistant Administrator.

[F. R. Doc. 49-2378; Filed, Mar. 31, 1949; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 573]

IDAHO

REVOKING PUBLIC LAND ORDER NO. 187 OF OCTOBER 13, 1943, WITHDRAWING PUBLIC LANDS FOR USE IN CONNECTION WITH PROSECUTION OF WAR

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Public Land Order No. 187 of October 13, 1943, withdrawing the hereinafter described public lands for use in connection with the prosecution of the war is hereby revoked.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on April 29, 1949. At that time the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety day period for preference-right filings.* For a period of 90 days from April 29, 1949, to July 29, 1949, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead or the desert land laws, or the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283), subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty day advance period for simultaneous preference-right filings.* For a period of 20 days from April 9, 1949, to April 28, 1949, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on April 29, 1949, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on July 30, 1949, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20 day period from July 9, 1949, to July 29, 1949, inclusive, and all such applications, together with those presented at 10:00 a. m. on July 30, 1949, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office at Blackfoot, Idaho, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office at Blackfoot, Idaho.

The lands affected by this order are described as follows:

BOISE BASE MERIDIAN

T. 2 N., R. 30 E.,
Sec. 34, E½E½;
Sec. 35, W½W½.

The areas described aggregate 320 acres.

These public lands are rolling and rough in topography, with considerable lava outcropping.

MASTIN G. WHITE,
Acting Assistant Secretary of the Interior.

MARCH 25, 1949.

[F. R. Doc. 49-2403; Filed, Mar. 31, 1949; 8:51 a. m.]

[Public Land Order 574]

ALASKA

RESERVING PUBLIC LAND FOR USE BY ALASKA ROAD COMMISSION AS AN ADMINISTRATIVE SITE AND PARTIALLY REVOKING PUBLIC LAND ORDER NO. 386

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described tract of public land in Alaska is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws but not the mineral leasing laws, and reserved for use by the Alaska Road Commission as an administrative site in the maintenance of the Alaska Highway:

GARDINER CREEK

U. S. Survey No. 2719, 39.45 acres, on the Alaska Highway at Mile 1248.

The reservation made by this order is subject to the withdrawal of a strip of land 600 feet wide, 300 feet on each side of the center line of the Alaska Highway, made by Public Land Order No. 386 of July 31, 1947.

Said Public Land Order No. 386 is hereby revoked as to the withdrawal for classification and survey of the tract of land therein described at Gardiner Creek, so far as it affects the above-described land.

MASTIN G. WHITE,
Acting Assistant Secretary of the Interior.

MARCH 25, 1949.

[F. R. Doc. 49-2404; Filed, Mar. 31, 1949; 8:50 a. m.]

TITLE 46—SHIPPING

Chapter II—United States Maritime Commission

Subchapter F—Merchant Ship Sales Act of 1946

[Gen. Order 60, Supp. 17, Amdt. 1]

PART 299—RULES AND REGULATIONS, FORMS, AND CITIZENSHIP REQUIREMENTS

ADDITIONAL VESSEL PRICES

Subject to the provisions of the Merchant Ship Sales Act of 1946 (60 Stat. 41) and Part 299 of Title 46 (13 F. R. 2169), the following additional vessel prices are published:

PRICES FOR STANDARD MARITIME COMMISSION VESSELS IN ACCORDANCE WITH THE MERCHANT SHIP SALES ACT OF 1946

Type vessel	Prewar domestic cost	Domestic war cost	Statutory sales price	Floor price
C3-S1-BR1 [1]	$5,883,206	$7,354,007	$2,941,603	$2,753,903

[1] The revised and new prices as above set forth are published for purposes of adjustment for prior sales to citizens in accordance with section 9 of the act. No vessel of this type is available for disposal.

SUBPART F—PREWAR DOMESTIC COSTS; STATUTORY SALES PRICES

Section 299.56 *Prewar domestic costs; statutory sales prices*, paragraph (qq) of this section published in the FEDERAL REGISTER of April 22, 1948 (13 F. R. 2169), is amended to read as follows:

(qq) *Type C3-S1-BR1.*[1] The C3-S1-BR1 type is a combination cargo and passenger vessel with accommodations for 119 passengers.

The prices of the standard type are as follows:

Prewar domestic cost	Domestic war cost	Statutory sales price	Floor price
$5,883,206	$7,354,007	$2,941,603	$2,573,903

[1] The revised and new prices as above set forth are published for purposes of adjustment for prior sales to citizens in accordance with section 9 of the act. No vessel of this type is available for disposal.

(60 Stat. 41; 50 U. S. C. App. 1742)

By order of the United States Maritime Commission.

[SEAL] A. J. WILLIAMS,
Secretary.

MARCH 24, 1949.

[F. R. Doc. 49-2411; Filed, Mar. 31, 1949; 8:51 a. m.]

TITLE 50—WILDLIFE

Chapter II—Alaska Game Commission

REVISION OF CHAPTER

Regulations of the Alaska Game Commission relating to guides, licenses, fur management areas, and poisons as adopted by the Alaska Game Commission on January 28, 1943, February 29, 1944, May 31, 1946, February 26, 1947, February 22, 1948, and February 24, 1949 (50 CFR, Supps. 12 F. R. 3894) are hereby amended to read as follows:

Basis and purpose. To provide additional protection for polar bear by requiring that nonresidents and aliens shall be accompanied by a registered guide when hunting these animals and to establish fur management areas for the protection of fur and game.

PART 161—GUIDES

Sec.
161.1 Employment of guides by nonresidents and aliens.
161.2 Qualifications for guide licenses and issuance thereof.

§ 161.1 *Employment of guides by nonresidents and aliens.* (a) Nonresidents of the Territory or aliens taking big game animals or polar bears for any purpose, or going afield to photograph large brown or grizzly bears, except nonresident Federal officials engaged in wildlife investigations in Alaska exempted by special permit of the Commission, are required to employ and be accompanied by a guide registered with and licensed by the Commission; but no such guide shall accompany in the field more than one nonresident or alien, except husband and wife and minor child, all of whom are in possession of the required hunting licenses.

(b) No guide may take any big game animal while guiding, except in cases of actual emergency when a bear is attacking or is about to escape after being wounded, it shall be the duty of the guide to take such action as he deems necessary. (57 Stat. 306; 48 U. S. C. Sup. 199, Subdivision M)

§ 161.2 *Qualifications for guide licenses and issuance thereof.* (a) Only resident citizens who are 21 years of age or more and have resided in the Territory for the 5 years immediately preceding application for registration and a guide license, and who are in sound physical condition and have had practical field experience in the handling of firearms, hunting, judging trophies, first aid, field preparation of trophies, and photography, and who are familiar with the terrain and transportation problems involved in the district for which application for such license is made, and who have further successfully passed oral and

written examination prepared by the Commission will be registered and licensed to act as guides for nonresidents and aliens taking big game animals or polar bears for any purpose, or going afield to photograph large brown or grizzly bears.

(b) The Alaska Game Commission will establish guide districts and maintain a register of such persons as are duly qualified and licensed to act as guides in such districts.

(c) Applications for such registration and guide license shall be made to a wildlife agent employed in the guide district in which the applicant resides, on a form issued by the Commission and shall state applicant's citizenship and resident status, age, physical characteristics, permanent address, and district or districts in which he desires to operate, together with full information relative to his qualifications to act as guide, and shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths.

(d) Upon receipt of such application by the wildlife agent, he shall conduct such written and oral examinations and make such investigations as the Commission shall require to determine the qualifications of the applicant to act as a guide.

(e) The wildlife agent who conducts such examinations shall promptly file his report thereof with the executive officer of the Commission, together with his recommendation thereon, which report and recommendation shall be attached to the application and considered and determined at a regular or special meeting of the Commission.

(f) The executive officer of the Commission may, after investigation and satisfying himself of an applicant's qualifications, issue a guide license to him upon payment of the required fee, authorizing him to act as a guide under the terms of the license, subject to approval of the Commission at its next meeting.

(g) If the Commission determines that the applicant does not possess sufficient field experience to qualify him to act as a principal guide but has all other qualifications, an assistant guide license may be issued to him, which shall authorize him to act as assistant to a principal guide.

(h) A registered guide license must bear the signature of the executive officer of the Commission. Each license shall expire on June 30 next succeeding its issuance, shall be revocable at the discretion of the Commission, and shall not be transferable.

(i) Each licensed guide shall submit to the Commission, immediately upon completion of a hunting or photographing trip, a report containing the name and address of the nonresident or alien for whom he acted as guide, period covered by his services, number and species of animals taken, wounded and not secured, numbers and localities of each species of big game animal observed on the trip, and such other information as the Commission may require. (57 Stat. 306; 48 U. S. C. Sup. 199, Subdivision M)

PART 162—POISONS

§ 162.1 *Designation and use of poison.* (a) Pursuant to section 8 of the Alaska Game Law, the following substances are by the Commission designated poisons: Strychnine, arsenic, phosphorus, antimony, barium, the cyanides, corrosive sublimate, or any derivative or derivatives, compound or compounds thereof, which, by said section 8, are forbidden:

(1) To be used at any time to kill any game or fur animal or bird, except by Fish and Wildlife Service employees under direction of the Commission.

(2) To be put out where any game or fur animal or bird may come in contact with it.

(3) To be sold or given to any hunter or trapper, or

(4) To be possessed by any hunter or trapper.

(b) Any person selling or otherwise disposing of any of the aforesaid poisons is required by said section 8 of the Alaska Game Law to keep a record in a special book showing the name and address of each person purchasing or otherwise procuring said poison, and the kind and amount thereof, such record to be, at all times, open to inspection by any wildlife agent or other officer authorized to enforce the Alaska Game Law and information thereof to be transmitted monthly to the Alaska Game Commission. (57 Stat. 306; 48 U. S. C. Sup. 199, Subdivision M)

PART 163—TRAPPING AND HUNTING LICENSES

§ 163.1 *Resident trapping, hunting, and fishing licenses.* No resident of the Territory over 16 years of age, except a native-born Indian or Eskimo, shall take game animals, fur animals, birds, or game fishes in the Territory without first having obtained a resident hunting license for game animals or birds, a trapping license for fur animals, or a fishing license for game fishes, but a person who is the holder of such trapping license shall be entitled to the privilege of hunting game animals or birds or taking game fishes, and a person who is the holder of a resident hunting license shall be entitled to the privilege of taking game fishes during the respective open seasons. (57 Stat. 306; 48 U. S. C. Sup. 199, Subdivision M)

PART 164—FUR MANAGEMENT AREAS

Sec.

AUTHORITY: §§ 164.1 to 164.3 issued under 57 Stat. 306; 48 U. S. Sup. 199, Subdivision M.

§ 164.1 *Koyukuk Fur Management Area.* (a) There is hereby set aside an area that hereafter, and for the purpose of this section, shall be known as the Koyukuk Fur Management Area, more particularly described as follows: The entire drainage of the Koyukuk River, beginning at the mouth of the Huslia River and extending upstream to and including the entire drainage of the Alatna River; thence crossing the Koyukuk River 10 statute airline miles up river from Alatna; thence crossing the Kanuti River 24 statute airline miles up river from the confluence of the Koyukuk and Kanuti Rivers; thence along the drainage of the Koyukuk River to the place of beginning.

(b) The seasons and limits on fur animals as prescribed in the annual regulations of the Secretary of the Interior under the Alaska Game Law shall be effective on the Koyukuk Fur Management Area. In that part of the area located within Fur District 6 the seasons and limits as prescribed by the Secretary, and then in effect, for that district shall be applicable. In the remainder of the aforesaid area those seasons and limits as established for Fur District 7 shall prevail.

(c) No fur animals may be taken except by the methods, means, and numbers provided in the general regulations of the Secretary of the Interior:

(1) No person shall take any fur animal within the Koyukuk Fur Management Area without first having resided within the boundaries of this area continuously for not less than one year; and

(2) Except as to native Indians, Eskimos, and residents under 16 years of age, be in possession of a current resident license to take fur animals in the Territory of Alaska at large.

§ 164.2 *Arctic Slope Fur Management Area.* (a) There is hereby set aside an area that hereafter, and for the purpose of this section, shall be known as the Arctic Slope Fur Management Area, more particularly described as follows: Beginning at the Village of Sinaru and running due south to the divide between the Colville and Noatak Rivers; thence easterly along the divide separating the waters flowing into the Arctic Ocean from the waters flowing into the Noatak and Yukon River drainages to the International Boundary; thence north along the International Boundary to the Arctic Ocean; thence westerly along the shores of the Arctic Ocean to the Village of Sinaru, or place of beginning.

(b) The seasons and limits on fur animals as prescribed in the annual regulations of the Secretary of the Interior under the Alaska Game Law shall be effective on the Arctic Slope Fur Management Area. The seasons and limits as prescribed by the Secretary, and then in effect, for Fur District 8, shall be applicable.

(c) No fur animals may be taken except by the methods, means, and numbers provided in the general regulations of the Secretary of the Interior.

(1) No person shall take any fur animal within the Arctic Slope Fur Management Area without first having resided within the boundaries of this area continuously for not less than one year; and

(2) Except as to native Indians, Eskimos, and residents under 16 years of age, lbe in possession of a current resident license to take fur animals in the Territory of Alaska at large.

§ 164.3 *Upper Tanana River Fur Management Area.* (a) There is hereby set aside an area that hereafter, and for

the purpose of this section, shall be known as the Upper Tanana River Fur Management Area, more particularly described as follows: To include the entire headwater drainage of the Tanana River from the Alaska-Canadian border to its confluence with the Robertson River below Tanana Crossing.

(b) The seasons and limits on fur animals as prescribed in the annual regulations of the Secretary of the Interior under the Alaska Game Law shall be effective on the Upper Tanana River Fur Management Area. The seasons and limits as prescribed by the Secretary, and then in effect, for Fur District 6, shall be applicable.

No fur animals may be taken except by the methods, means, and numbers provided in the general regulations of the Secretary of the Interior.

(1) No person shall take any fur animal within the Upper Tanana River Fur Management Area without first having resided within the boundaries of this area continuously for not less than one year; and

(2) Except as to native Indians, Eskimos, and residents under 16 years of age, be in possession of a current resident license to take fur animals in the Territory of Alaska at large.

The above enumerated regulations were adopted at a meeting of the Alaska Game Commission held for that purpose, at which all of the members were present, in the city of Juneau, Alaska, on the 16th day of February 1949.

In testimony whereof, we have set our hands and have caused the official seal of the said Commission to be affixed in the city of Juneau, Alaska, this 24th day of February 1949.

[SEAL] EARL N. OHMER,
Commissioner, 1st Judicial Division, and Chairman.
GARNET W. MARTIN,
Commissioner, 2d Judicial Division.
ANDREW A. SIMONS,
Commissioner, 3d Judicial Division.
FORBES L. BAKER,
Commissioner, 4th Judicial Division.
CLARENCE J. RHODE,
Executive Officer.

[F. R. Doc. 49-2406; Filed, Mar. 31, 1949; 9:08 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 941]

HANDLING OF MILK IN CHICAGO, ILL., MILK MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED AMENDMENTS TO ORDER, AS AMENDED.

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR, Supps. 900.1 et seq., 12 F. R. 1159, 4904), notice is hereby given of the filing with the Hearing Clerk of a recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the order, as amended, and to a proposed marketing agreement, regulating the handling of milk in the Chicago, Illinois, milk marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 20th day after the publication of this recommended decision in the FEDERAL REGISTER.

Preliminary statement. A public hearing, on the record of which the recommended decision was formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of proposed amendments filed by the Associated Milk Dealers, Inc. The public hearing was held at Chicago, Illinois, on September 21–23, 1948, inclusive, upon notice issued September 16, 1948 (13 F. R. 5400).

The material issue presented on the record of hearing was whether the handlers receiving Chicago approved milk at plants without distribution facilities in the marketing area should be required to ship to the Chicago or Suburban Chicago marketing area specified percentages of their plant receipts during each of the months of August through November as a condition of continuing the receipts of such plants in the Chicago pool in the months of February through July following.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

1. The record of this hearing does not provide a satisfactory basis upon which equitable requirements may be formulated for participation in the Chicago pool by plants on the basis of shipments to the marketing area.

Under the current provisions of Order No. 41, all plants approved by health authorities for the receiving of milk which may be disposed of as Class I milk in the marketing area participate in the Chicago pool. It was proposed that receiving plants which do not distribute Class I or Class II milk in the marketing area be required to dispose of a specified percentage of their receipts of butterfat during August through November of each year to plants distributing Class I or Class II milk in the marketing area or in the Order 69 (Suburban Chicago) marketing area, in order to participate in the pool during the following period of February through July.

In support of the proposal it was testified that during the short supply season of August through November, Chicago distributors had in past seasons had difficulty in securing supplies when total pool receipts were adequate for needs of the market. The difficulty was attributed to movement of Chicago milk from country plants to distant markets which resulted in a deficiency of milk for the Chicago market.

While shortages of supplies for Chicago were shown to have occurred in 1946 and 1947, there appeared to be no prospect of shortage for the fall season of 1948. During August 1948 milk supplies were ample for all needs and country plants used high percentages of their receipts in lower class uses. While this proposal provided that the percentage of receipts that country plants would be required to supply the marketing area could be adjusted by the market administrator who would have the advice of a committee of distributors and producers, the experience of August 1948 indicates that difficulty would be experienced in making this adjustment in a timely and equitable manner.

It may be that a provision is desirable which would require plants participating in the pool to accept responsibility to supply the market with its needs so far as supplies are available, but this record does not provide an adequate basis for formulating such a provision. The matter does not seem to be one of immediate urgency and it does present some very complex problems. For these reasons it is recommended that no action be taken at this time, although a further exploration of the matter at a future time might be desirable.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of various handlers under the order, some of whom are also cooperative associations of producers. No briefs were received from proponents of the proposed amendments.

Every point covered in the briefs received was carefully considered along with the evidence in the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein, the request to make such findings and conclusions is denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

Dated: March 28, 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 49-2440; Filed, Mar. 31, 1949; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING PUBLIC LAND FOR USE BY ALASKA ROAD COMMISSION AS AN ADMINISTRATIVE SITE AND PARTIALLY REVOKING PUBLIC LAND ORDER NO. 386 [1]

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order sould be rescinded, modified or let stand will be given to all interested parties of record and the general public.

MASTIN G. WHITE,
Acting Assistant Secretary of the Interior.

MARCH 25, 1949.

[F. R. Doc. 49-2405; Filed, Mar. 31, 1949; 8:50 a. m.]

[49624]

OREGON

NOTICE OF FILING OF SUPPLEMENTAL PLAT OF SURVEY

MARCH 24, 1949.

Notice is given that the supplemental plat of survey of section 17, T. 32 S., R. 13 W., W. M., Oregon, accepted, November 30, 1948, including land hereinafter described, will be officially filed in the Land and Survey Office, Portland, Oregon, effective at 10:00 a. m. on April 28, 1949.

The land affected by this notice is described as follows:

WILLAMETTE MERIDIAN

T. 32 S., R. 13 W.,
Sec. 17, N½NW¼.

The area described aggregates 80 acres.

The land represented by this plat was included in an idemnity selection by the Northern Pacific Railway Company under the act of July 1, 1898 (30 Stat. 597, 620), as amended by the act of May 17, 1906 (34 Stat. 197).

The Northern Pacific Railway Company filed a release of further claims under its land grants pursuant to the provisions of section 321 (b), Part II, Title III of the Transportation Act of 1940 (54 Stat. 954, 49 U. S. C. 65), and the regulations dated October 10, 1940, Circular 1480 (43 CFR, Part 273). The release was approved on April 18, 1941.

Upon the official filing of the plat of Survey, the land represented thereby will not be subject to disposition under the general public land laws by reason of the filing thereof.

Inquiries concerning the land shall be addressed to the Manager, Land and Survey Office, Portland, Oregon.

MARION CLAWSON,
Director.

[F. R. Doc. 49-2402; Filed, Mar. 31, 1949; 8:50 a. m.]

[1] See F. R. Doc. 49-2404, Title 43, Chapter I, Appendix, *supra.*

FEDERAL POWER COMMISSION

[Docket Nos. G-1019, G-1092]

EL PASO NATURAL GAS CO. AND PACIFIC GAS AND ELECTRIC CO.

NOTICE OF AMENDATORY ORDER

MARCH 28, 1949.

Notice is hereby given that, on March 23, 1949, the Federal Power Commission issued its order entered March 22, 1949, amending paragraph (D) of the findings and order entered February 28, 1949 (published in the FEDERAL REGISTER on March 5, 1949 (Vol. 14, No. 43, P. 1026)), in the above-designated matters.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2422; Filed, Mar. 31, 1949; 8:53 a. m.]

[Project No. 13]

HENRY FORD AND SON, INC.

NOTICE OF ORDER APPROVING EXHIBIT

MARCH 28, 1949.

Notice is hereby given that, on March 25, 1949, the Federal Power Commission issued its order entered March 22, 1949, approving Exhibit L in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2423; Filed, Mar. 31, 1949; 8:53 a. m.]

[Project No. 382]

SOUTHERN CALIFORNIA EDISON CO.

NOTICE OF ORDER APPROVING REVISED EXHIBIT

MARCH 28, 1949.

Notice is hereby given that, on March 25, 1949, the Federal Power Commission issued its order entered March 22, 1949, approving revised Exhibit L as part of the license in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2424; Filed, Mar. 31, 1949; 8:53 a. m.]

[Project No. 1218]

GEORGIA POWER CO.

NOTICE OF ORDER DETERMINING ACTUAL LEGITIMATE ORIGINAL COST AND PRESCRIBING ACCOUNTING THEREFOR

MARCH 28, 1949.

Notice is hereby given that, on March 24, 1949, the Federal Power Commission issued its order entered March 22, 1949, determining actual legitimate original cost and prescribing accounting therefor in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2425; Filed, Mar. 31, 1949; 8:53 a. m.]

[Project No. 1964]

EMERSON M. GROVE AND EVA LEE CALHOUN

NOTICE OF ORDER RESCINDING AUTHORIZATION FOR ISSUANCE OF LICENSE (MINOR) AND DISMISSING APPLICATION FOR LICENSE

MARCH 28, 1949.

In the matter of Emerson M. Grove and Eva Lee Calhoun, Administratrix of the Estate of Emerson M. Grove; Project No. 1964.

Notice is hereby given that, on March 24, 1949, the Federal Power Commission isued its order entered March 22, 1949, rescinding order of September 21, 1948 (published in the FEDERAL REGISTER on October 1, 1948 (Vol. 13, No. 192, P. 5690)) authorizing the issuance of license to Eva Lee Calhoun, Administratrix of the Estate of Emerson M. Grove, for a proposed minor project affecting lands of the United States in Placer County, California, and dismissing application for license in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2426; Filed, Mar. 31, 1949; 8:53 a. m.]

WEST MARYLAND POWER CO.

NOTICE OF ORDER AUTHORIZING AND APPROVING DISPOSITION OF AMOUNTS CLASSIFIABLE IN ELECTRIC PLANT ACQUISITION ADJUSTMENTS, AND ELECTRIC PLANT ADJUSTMENTS

MARCH 28, 1949.

Notice is hereby given that, on March 23, 1949, the Federal Power Commission issued its order entered March 22, 1949, authorizing and approving disposition of amounts classifiable in Account 100.5, Electric Plant Acquisition Adjustments, and Account 107, Electric Plant Adjustments in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2427; Filed, Mar. 31, 1949; 8:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-586-1]

SHAREHOLDERS' TRUST OF BOSTON

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 28th day of March A. D. 1949.

Notice is hereby given that Shareholders' Trust of Boston (applicant), an investment company registered under the Investment Company Act of 1940, has filed an application for an order pursuant to section 6 (c) of the act exempting applicant from the provisions of section 32 (a) (1) and (2) of the act insofar as is necessary to permit the filing with the Commission of financial statements certified by Lybrand, Ross Bros. & Montgomery pending ratification or rejection of the selection of said firm by applicant's Board of Trustees.

Applicant asserts that through inadvertence the selection of Lybrand, Ross Bros. & Montgomery as the independent public accountant of applicant to sign and certify financial statements to be filed by applicant with the Commission relating to the calendar year 1949 was not made at a meeting of applicant's Board of Trustees within thirty days after the beginning of the current fiscal year, but was made at the annual meeting of said Board of Trustees held on March 18, 1949; and at the annual meeting of the applicant's shareholders held on February 16, 1949, there was not submitted to the shareholders the selection of said firm as such independent public accountant for ratification or rejection. Applicant further asserts that it has established a policy of mailing to its shareholders quarterly reports within thirty days after the end of each quarter and of including in each such quarterly report financial statements certified by said firm as applicant's independent public acountant; applicant proposes to mail to its shareholders within thirty days after March 31, 1949, a quarterly report covering the three months' period ended March 31, 1949, and containing a financial statement certified by said firm, a copy of which is required to and will be filed with the Commission within ten days after it has been mailed to the shareholders. Applicant proposed to call a special meeting of its shareholders to be held not later than July 1, 1949, and to submit to such meeting the selection of Lybrand, Ross Bros. & Montgomery.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the office of the Commission in Washington, D. C.

Notice is further given that an order granting the application, in whole or in part and upon such terms and conditions as the Commission may deem necessary or appropriate, may be issued by the Commission at any time after April 8, 1949 unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than April 6, 1949 at 5:30 p. m., submit in writing to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-2407; Filed, Mar. 31, 1949; 8:50 a. m.]

[File Nos. 59-11, 59-17, 54-25]

UNITED LIGHT AND POWER CO., ET AL.

NOTICE OF FILING

At a regular session before the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of March A. D. 1949.

Notice is hereby given that The United Light and Railways Company ("Railways"), a registered holding company, has filed an application-declaration with respect to the disposition of 132,991 shares of common stock of Madison Gas and Electric Company ("Madison"), in accordance with applicable provisions of the Public Utility Holding Company Act of 1935 ("act") and the rules and regulations promulgated thereunder.

Notice is further given that any interested person may, not later than April 11, 1949 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held with respect to said application-declaration stating the nature of his interest, the reason for such request and specifying in detail the issues, if any, of fact or law raised by said application-declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after April 11, 1949 such application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under said act or the Commission may exempt such transactions as permitted in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application-declaration, which is on file in the offices of this Commission, for a statement of the transactions therein proposed which are summarized as follows:

The section 11 (e) plan of Railways and its registered holding company subsidiary, American Light & Traction Company ("American Light"), provides among other things, that Railways shall dispose of such shares of the common stock of Madison as it shall receive in distributions of said stock, pursuant to the plan, by American Light and apply the net proceeds from the sale of such stock to the payment of Railways' outstanding bank loan. The application-declaration states that Railways has received 132,991 shares of the common stock of Madison as its pro rata share of the distribution of such stock by American Light. Railways proposes to distribute to its own common stockholders its holdings of the Madison common stock on the basis of one share of Madison stock for each 25 shares of Railways' common stock. It is stated that no fractional shares of Madison stock shall be distributed but, in lieu thereof, cash shall be distributed to the common stockholders of Railways which, expressed in terms of one share of Railways' common stock, will be equal to one twenty-fifth of the market value per share of the Madison stock on the record date of the distribution, which shall be the tenth business day (excluding Saturdays, Sundays and legal holidays) following the date of the entry of the Commission's order approving the application-declaration. The distribution is to be made on the twentieth business day (excluding Saturdays, Sundays and legal holidays) following the record date. It is provided that the applicant-declarant shall file a notification with the Commission setting forth its determination of the market value of the Madison stock and the information on which such determination is based, and, unless the Commission shall otherwise direct within two business days (excluding Saturdays, Sundays and legal holidays) after such notification is filed the amount of cash to be distributed in lieu of fractional shares shall be based on such market value.

The application-declaration states that subsequent to the receipt of the Madison stock, the Board of Directors of Railways concluded that the interests of the common stockholders of Railways would be best served by liquidating Railways and its subsidiary, Continental Gas & Electric Corporation, and disposing of the common stocks of the principal operating subsidiaries of those companies to the common stockholders of Railways, that the proposal to liquidate has been publicly announced, and that a plan providing for the proposed liquidation of Railways and Continental Gas & Electric Corporation is now being prepared for filing with the Commission. It is further stated that to expedite the liquidation of Railways and Continental Gas & Electric Corporation it is contemplated that cash dividends will not be paid on the common stock of Railways in the future, but that future distributions on such stock will consist of stocks of the operating companies with a possible cash distribution. The application-declaration states that the sale of Madison stock is not required in order to provide the funds needed to retire Railways' outstanding loan. In this connection it is also stated that the principal amount of such loan will have been reduced to approximately $4,750,000 after application of the net proceeds of the recent sale of 634,667 shares of common stock of American Light and that the net proceeds of the additional offering of the balance of Railways' holdings of American Light common stock to be made

later in 1949, pursuant to the provisions of the section 11 (e) plan, will be more than sufficient to retire the loan.

Applicant-declarant requests the Commission to enter an order at the earliest practicable date authorizing and approving the proposed distribution of the common stock of Madison and that such order conform to the requirements of Supplement R and section 1808 (f) of the Internal Revenue Code, as amended.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-2403; Filed, Mar. 31, 1949; 8:50 a. m.]

UNITED STATES TARIFF COMMISSION

[List No. 6 (E)]

UNITED STATES HOP GROWERS ASSN.

APPLICATION RECEIVED

MARCH 29, 1949.

Application as listed below for investigation under the escape clause of trade agreements has been filed with the United States Tariff Commission under the provisions of Part III, Executive Order 10004 of October 5, 1948.

Name of article	Purpose of request	Date received	Name and address of applicant
Hops, valued at 50¢ or more per pound. Par. 780, Tariff Act of 1930.	To determine whether hops are being imported in such increased quantities as to cause or threaten serious injury to domestic producers.	Mar. 28, 1949	United States Hop Growers Association, Mills Bldg., San Francisco 4, Calif.

The application listed above is available for public inspection at the office of the Secretary, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C., and in the New York Office of the Tariff Commission, located in Room 437, The Custom House, New York, N. Y., where it may be read and copied by persons interested.

[SEAL] SIDNEY MORGAN, *Secretary.*

[F. R. Doc. 49-2434; Filed, Mar. 31, 1949; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12975]

ISHU MURAKAMI AND FIRST SEATTLE DEXTER HORTON NATIONAL BANK

In re: Trust Indenture dated April 18, 1930, between Ishi Murakami, Grantor, and First Seattle Dexter Horton National Bank, trustee. File No. F-39-1814.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mary Yayoko Murakami, Robert Eiichi Murakami and Alice Kiyoko Murakami, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to and arising out of or under that certain trust agreement dated April 18, 1930, by and between Ishi Murakami, Grantor, and First Seattle Dexter Horton National Bank, 2nd and Columbia, Seattle 14, Washington, Trustee, presently being administered by Seattle First National Bank, 2d and Columbia, Seattle, Washington, Trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON, *Acting Deputy Director, Office of Alien Property.*

[F. R. Doc. 49-2437; Filed, Mar. 31, 1949; 8:47 a. m.]

[Vesting Order 12934]

JOHN A. SCHNEIDER

In re: Estate of John A. Schneider, deceased. File No. D-28-10774; E. T. sec. 15183.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelm Zeller, Maria Kayser, Katharina Haehnlein, and Margaretha Fuerst, whose last known address was, on November 30, 1948, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next-of-kin, legatees and distributees, names unknown, of Elise Jaeger Heinz, deceased, of Sabine Jaeger Schmick, deceased, of Michael Koberstein, deceased and of Margaretha Bauernfeind, deceased, who, on November 30, 1948, there was reasonable cause to believe were residents of Germany, were on such date nationals of a designated enemy country (Germany);

3. That the sum of $192.95 was paid to the Attorney General of the United States by the First National Bank of Chicago, Executor of the estate of John A. Schneider, deceased;

4. That the said sum of $192.95 was accepted by the Attorney General of the United States on November 30, 1948, pursuant to the Trading With the Enemy Act, as amended;

5. That the said sum of $192.95 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

6. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next-of-kin, legatees and distributees, names unknown, of Elise Jaeger Heinz, deceased, of Sabine Jaeger Schmick, deceased, of Michael Koberstein, deceased, and of Margaretha Bauernfeind, deceased, were not within a designated enemy country on November 30, 1948, the national interest of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 49-2435; Filed, Mar. 31, 1949; 8:47 a. m.]